



Marion County **OREGON**

PUBLIC WORKS

BOARD OF COMMISSIONERS

Colm Willis, Chair
Kevin Cameron
Danielle Bethell

DIRECTOR Brian Nicholas, PE

ADMINISTRATION

BUILDING INSPECTION

EMERGENCY MANAGEMENT

ENGINEERING

ENVIRONMENTAL SERVICES

OPERATIONS

PARKS

PLANNING

SURVEY

MARION COUNTY PLANNING COMMISSION REVISED STAFF REPORT

SUBDIVISION: 23-002

OWNER: Leslie & Oran Whitaker Living Trust

REQUEST: Request for conceptual and detailed approval to divide a 9.27 acre parcel into four lots.

LOCATION: 4200 Victor Point Rd NE (T7S, R1W, Section 02D, Tax lot 500).

DATE: September 27, 2023

REPORT OF THE FACTS:

1. The subject property is zoned AR (Acreage Residential) and correspondingly zoned Rural Residential in the Marion County Comprehensive Plan. The property is located outside of any Urban Growth Boundary.
2. The property is located on the northeast side of Victor Point Rd NE, directly northeast of its intersection with Sunset Ln NE, a private road. The property is currently developed with a single-family dwelling and an accessory structure and slopes down to the northeast by roughly 150 feet of elevation across the parcel. There are multiple mapped intermittent streams that run down the slopes draining the hillside and turn into perennial streams at the base of the hill. The property is located within an SGO (Sensitive Groundwater Overlay) zone and does contain geo-hazards across the majority of the parcel. 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 in all directions except southwest are zoned AR and are developed with single-family homes and residential accessory structures. Across the road are parcels zoned EFU (Exclusive Farm Use) and are currently in timber and farm use.

AGENCY COMMENTS:

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

ENGINEERING CONDITION

Condition A – *On the subdivision plat dedicate a 30-foot R/W half-width to the public for roadway purposes along the Victor Point Road property frontage.*

Condition B – *On the subdivision plat depict appropriate shared access easements.*

Condition C – *Prior to subdivision plat approval acquire a PW Eng Permit, and under the Permit construct any remedial modifications to the shared north access approach as may be required upon formal inspection to meet PW Eng design standards, construct the shared south access approach, and clear brushy vegetation along the property frontage from within 20 feet of the public roadway pavement.*

Marion County Septic Inspection commented: “An existing system evaluation will be required for the existing septic system attached to the existing home. Each parcel will require a septic site evaluation.

Marion County Survey Department 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.

Marion County Tax Assessor provided comments related to the subject properties property taxes.

Marion County Building Inspection commented: “Permits will be required prior to any development and/or utilities on private property. Based on the contours provided in the site plans, an engineered design will be required during review prior to permit issuance. A geotechnical analysis of the site slopes and soils will also be required during review prior to permit issuance.”

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

ANALYSIS AND CONCLUSIONS:

5. The applicant is proposing to subdivide a 9.27-acre parcel into 4 total lots. Each lot will be served by a well and septic system and meet a 2-acre minimum lot size. Proposed lot sizes are 2.09, 2.06, 2.02 and 2.97 acres each.
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 will review all required street and roadway improvements as well as drainage and easements to assure compliance with their engineering standards. Their recommended conditions outline the improvements required and will be included as a condition of approval.

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 other than the 30 foot half width required by LDEP; rather, all parcels will have frontage on Victor Point Rd NE and will have access and addresses off of Victor Point Rd NE. 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.

As stated in finding #4, Marion County LDEP will require an access permit that will ensure that the property line radius at street intersections shall be to the Marion County Public Works Department's standards. Additionally, they will review the survey and plat to confirm this standard.

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 plans contain one private access that will be graded to 15%. Because this is a private access, it is not regulated under this section, however, this may need to be adjusted for access by the Silverton Fire Department. Silverton Fire in conjunction with LDEP will regulate access.

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.

Marion County Land Development and Engineering requested a 30-foot half width right of way dedication along Victor Point Rd NE. This shall be made a condition of approval.

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.

Marion County Land Development and Engineering requested a 30-foot half width right of way dedication along Victor Point Rd NE. This shall be made a condition of approval. LDEP will govern any additional right of way dedication that will be needed.

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.

Marion County Land Development and Engineering will review the subdivision plat to assure this standard is met prior to it being recorded. Applicant depicts a 20-foot wide easement for utilities.

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.

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.

As noted in their comments, Marion County Land Development and Engineering will review all required street and roadway improvements to assure compliance with their engineering standards.

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.

A private street is not proposed, all lots have frontage and will take access of Victor Point Rd NE.

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 2.02 to 2.97 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 does not propose any curved front lot lines and the final plat will be required to meet all survey requirements.

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.

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, however, the applicant depicts a 20-foot easement for utilities that encompasses the access easement as well. This will be reviewed and approved by LDEP to ensure compliance with this standard.

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 have a minimum of 20 feet of frontage. The parcels will be addressed off of Victor Point Rd NE as they all have frontage and driveways will enter off of Victor Point Rd NE. There is a small easement proposed on a portion of lot 1, currently the plans show the grade as 15%, this will need to be brought to 12% at time of development unless LDEP, Silverton Fire and Marion County agree on an alternative that still maintains adequate access for emergency vehicles.

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.*
 - 2. The monitoring plan shall be submitted to the county for peer review and is subject to approval by the county.*
 - 3. The monitoring plan shall be approved and implemented before building permits are issued.*
 - 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.*
 - 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.*
 - 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.*

Conformance with these criteria shall be made a condition of approval.

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. Prior to submission of the final plat, the applicant shall submit evidence of compliance with the development and access standards of the Silverton Fire Department.
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 – On the subdivision plat dedicate a 30-foot R/W half-width to the public for roadway purposes along the Victor Point Road property frontage.

Condition B – On the subdivision plat depict appropriate shared access easements.

Condition C – Prior to subdivision plat approval acquire a PW Eng Permit, and under the Permit construct any remedial modifications to the shared north access approach as may be required upon formal inspection to meet PW Eng design standards, construct the shared south access approach, and clear brushy vegetation along the property frontage from within 20 feet of the public roadway pavement.

4. If an access easement is proposed to serve the properties, prior to recording the final plat, the applicant shall provide a copy of a maintenance agreement with provisions for maintenance of the private access easements.
5. 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.
6. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
7. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
8. A geo-technical report will be required by the Building Department for development on all parcels.
9. 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.
10. 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.
11. Prior to building permits being issued, the monitoring plan shall be approved and implemented.
12. The applicant shall provide one observation well. Monitoring shall begin at the start of development.

13. Evidence of water level declines shall require preparation of a hydrogeology study prior to the issuance of future building permits if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development.
14. An access easement that allows county and OWRD personnel to measure water levels shall be recorded with the deed for the lot containing the observation well.
15. Each new parcel shall install a minimum of a 1500 gallon water storage tank, or greater if identified in the water level monitoring plan.

Austin Barnes
Principal Planner

Date: 9/13/2023

If you have any questions regarding this decision 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.