

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

NOTICE OF DECISION

ADMINISTRATIVE REVIEW CASE NO. 25-002

APPLICATION: Application of John Scott Hawkins and Lynette Marie Hawkins for an administrative review to create a public drainage easement as a utility facility necessary for public use on a 11.49-acre parcel in an SA (Special Agriculture) zone located at in the 6500 block of Acorn St SE, Turner (T8S; R2W; Section 20DA; Tax lot 300).

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

EXPIRATION DATE: This decision is valid only when exercised by **April 11th, 2027** (two years) unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. 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:

1. The applicant shall obtain any and all permits, including any subsurface sewage disposal, as required by the Marion County Building Inspection Division.
2. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.
3. The development shall significantly conform to the site plan submitted. Minor changes are allowed after review and approval by 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 thereon. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

APPEAL PROCEDURE: The Marion County 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 deny the application. Anyone who disagrees with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$250.00 fee) 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. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00p.m. on **April 11th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 14th, 2025**, unless appealed.

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

1. The SA (special agriculture) zone is applied in areas characterized by small farm operations or areas with a mixture of good and poor farm soils where the existing land use pattern is a mixture of large and small farm units and some acreage homesites. This zone allows the flexibility in management needed to obtain maximum resource production from these lands. It emphasizes farm use, but forest use is allowed and protected from conflicts. The SA zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.
2. The property is located at the northern end of Acorn Street SE. There are no known dwellings or structures currently on the land. This property was the subject of an administrative review case in 2018 (AR10-018) and is therefore considered legal for land use purposes.
3. Surrounding properties to the north and east are SA and primarily in agricultural use or dwellings on smaller sized lots. Property to the west and south is within the city limits of Turner primarily devoted to residential development.
4. The subject property is comprised of approximately 99.0% high value soils.
5. The applicants are proposing to allow the creation of a public drainage facility as a utility necessary for public service to serve the streets and sidewalks for the future subdivision to the immediate southeast (6650 Acorn St SE).
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building Department commented:

“No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or private utilities on private property.”

The City of Turner Commented:

1. The request is not timely. We have not even initiated review of the subdivision. We don't need this easement unless the subdivision is actually developed.
2. Many of the justifications noted in the application are either attributed to the City or the City's Engineer. We would like some of these statements modified or noted that these are not statements that have come directly from the City.

Land Engineering and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. Prior to plat approval, record a public stormwater drainage easement over the proposed city subdivision drainage facility in favor of the City of Turner. Marion County will review the drainage easement document; however, the City is responsible to ensure that the final document meets their development requirements.
- B. The design, permitting and construction of the stormwater drainage facility shall be administered by the City.
- C. All maintenance of the Stormwater drainage facility shall be borne by the City.

ENGINEERING ADVISORY

- D. County GIS mapping indicates the presence of NWI wetlands along a seasonal creek at the proposed outfall location.

Marion County Septic Commented:

Please show septic system. Setbacks are required. Is storm drainpipe solid? If so, 10-foot setback is required. If perforated pipe or ditch, other setbacks may be required.

All other commenting agencies stated no objection to the proposal.

7. Public drainage facilities are a “Utility Facility Necessary for Public Use” as found in MCC 17.137.040(I). the approval criteria are found below:

1. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is necessary if it must be situated in the SA zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered, and that the facility must be sited in an SA zone due to one or more of the following factors as found in OAR 660-033-0130(16):

1. Technical and engineering feasibility;

The applicants state that the City of Turner's storm water system elevation is above the low point of Acorn Street SE and the future new road - Acorn Court. They further claim that a pump station and on-site water retention options are not feasible. The criterion is met.

2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for special agriculture in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

The applicants stated that they consulted with a City of Turner engineer and a consultant with MultiTech Engineering, and they concluded that the proposed utility across tax lot 300 was the best route to channel stormwater to Turner Lake where other stormwater management projects direct stormwater. The criterion is met.

3. Lack of available urban and nonresource lands;

All other parcels in the immediate area are also zoned SA, are already developed, or are within the urban growth boundary of the City of Turner. The criterion is met.

4. Availability of existing right-of-way;

The applicants' statement does not directly address the availability of existing right-of-way, but rather mentions that the beneficiary of this application will be the future road extension and related road and sidewalk improvements. The criterion is met.

5. Public health and safety; and

There are no known health or public safety implications of this application. The criteria does not apply

6. Other requirements of state and federal agencies.

a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

The cost to build these facilities are not the main limitation to this project, rather topography and pre-existing residential use and location are the main determining factors. The criterion is met.

b. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.

The financial arrangements for the development and installation of the utility facilities were not disclosed by the applicants. As a condition of approval, there shall be no cost to adjacent owners. This shall be a condition of approval. The criterion is met.

c. The applicant shall address the requirements of MCC 17.137.060(A)(1).

MCC 17.137.060(A) (1) reads:

1. *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

The construction of this drainage facility will is expected to disturb the least amount of land possible and is not expected to affect any adjacent farm or forestry operations. The criterion is met.

- d. *In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.*

No sewer system is proposed. The criterion does not apply.

- e. *The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.*

The facility is not a natural gas pipeline. The criterion does not apply.

- f. *If the criteria contained in this subsection (I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:*

- i. *"Consult" means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.*
- ii. *"Transmission line" means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.*

The facility does not contain a transmission line. The criterion does not apply.

7. *An associated transmission line shall be considered necessary for public service solely based on the criteria below:*

The facility does not contain a transmission line. This section and criteria do not apply.

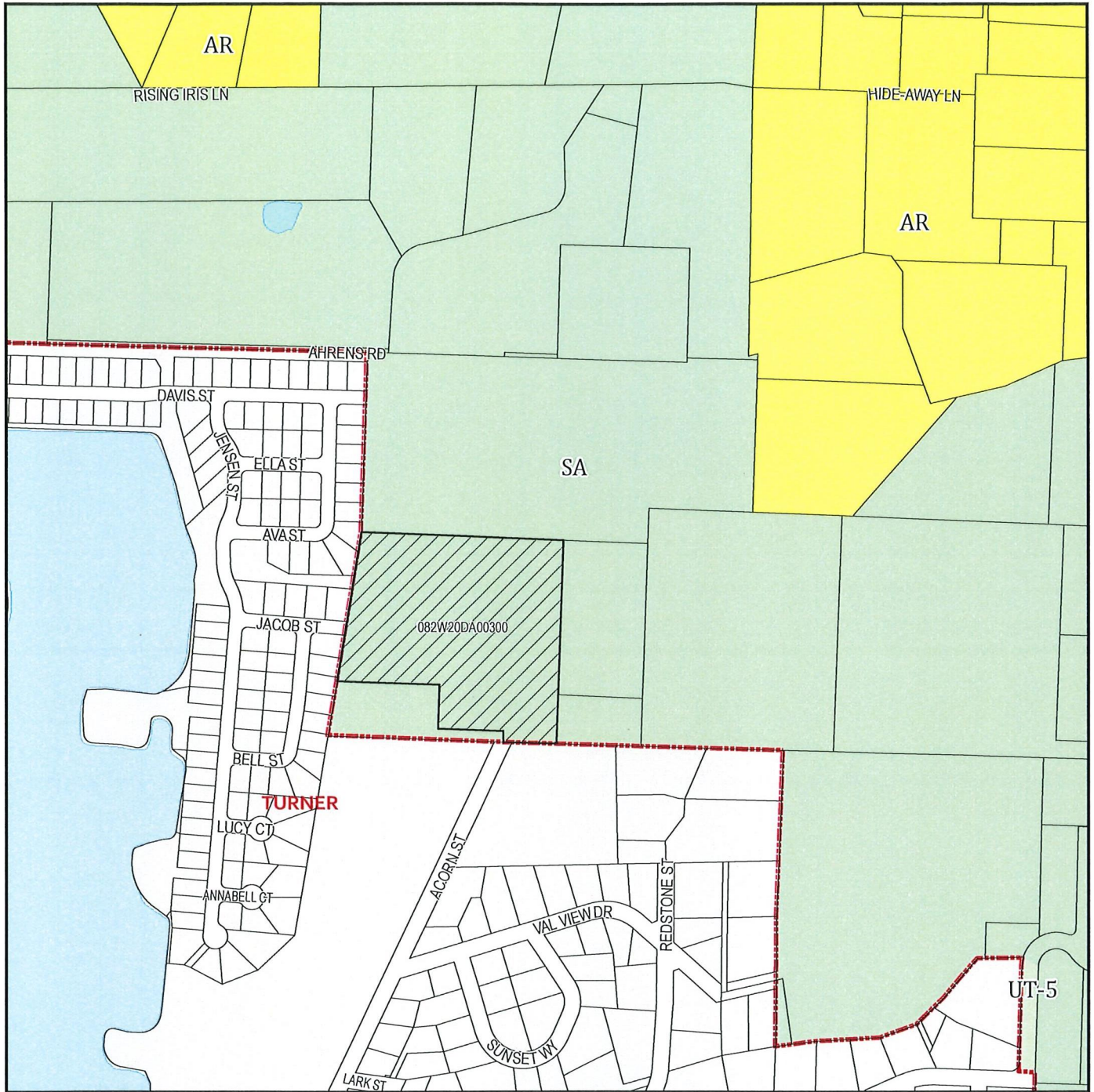
8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 28th, 2025

If you have any questions regarding this decision contact George Brandt at (503) 566-3981.

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): 082W20DA00300

Owner Name: HAWKINS, JOHN SCOTT & HAWKINS, LYNETTE M

Situs Address: (No Situs Address)

City/State/Zip:

Land Use Zone: SA

School District: CASCADE

Fire District: TURNER

Legend

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 526 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.