

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
PARTITION CASE NO. P25-010**

APPLICATION: Application of the Santos and Graciela Garcia Trust to partition 8.5-acres into two parcels of 3.8-acres, and 4.7-acres in an AR-3 (Acreage Residential) zone located at 8838 Silver Falls Highway, Aumsville (T8S; R2W; Section 13C; Tax lot 2500).

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

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **May 26th, 2027**. 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:

Prior to recording the final plat:

1. Per the Marion County Surveyor's Office; Parcels must be surveyed and monumented and the plat submitted for review, per ORS 92.050. Checking and recording fees are required and 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. The applicant shall obtain all permits required by Marion County Building.
3. The applicant shall obtain all septic site evaluations required by Marion County Septic before approval of the partition.
4. The newly created parcel shall be addressed: **8848 Silver Falls Highway SE, Aumsville OR 97325-9551.**

Prior to issuance of building permits on the resulting parcels,

5. Prior to recording the final partition, all potential tax liabilities must be paid.
6. The partition plat shall be recorded.
7. The applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
8. Prior to the issuance of building permits on the new parcel, the owners shall sign and submit a Sensitive Groundwater Overlay Zone (SGO) Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

9. The applicants shall obtain an access permit for Highway 214 (Silver Falls Highway) from the Oregon Department of Transportation (ODOT).

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

10. 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 three acres in size.
11. 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 the findings below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

12. 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).
13. The applicants should contact the Aumsville 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.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

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 \$250) 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 **May 26th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 27th, 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 and Primary Agriculture in the Marion County Comprehensive Plan. The intent of the (Acreage Residential) AR zone is 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. The purpose of the AR designation and the corresponding EFU (Exclusive Farm Use) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas and the EFU zone promotes commercial farming operations. This property is in the AR-3 (Acreage Residential - 3 Acre Minimum).
2. The subject parcel is located south of Highway 214 (Silver Falls Highway) approximately one mile east of the intersection of Hwy 214 and OR Hwy 22 (Santiam Highway) and about 400 feet east of Huskey Ln SE. The subject parcel was created in its current form through a 1990 partition (P90-007) and a 1998 lot line adjustment

(LLA98-045). The property has an 1875 dwelling and several accessory structures. The dwelling and parcel are considered legal for land use purposes.

3. Surrounding uses are a mix of large acreage residences in the AR zone. There are other areas zoned Exclusive Farm Use (EFU) but are separated from the subject parcel by other AR zoned areas and OR Hwy 214.
4. The applicants propose to divide an 8.50-acre parcel into two new parcels of 3.80-acres and 4.70-acres. The 1875 dwelling will be sited on the 3.8-acre parcel and the remaining 4.70-acre parcel will be the second parcel.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Survey Department commented:

Partition:

1. Parcels must be surveyed and monumented
2. Per ORS 92.050, plat must be submitted for review
3. Checking fee and recording fees required
4. 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 Septic commented:

The 4.7-acre parcel will require a site evaluation for septic approval to approve partition.

Marion County Building commented:

"No Building Inspection concerns. It is recommended the new property line be established at least 3 feet from existing residential structures and/or 10 feet from existing commercial structures (if applicable). Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property."

Public Works Land Development and Engineering Permits (LDEP) commented:

ENGINEERING ADVISORY

- A. ODOT has jurisdiction over Silver Falls Hwy (SR 214) with regard to driveway access and utility service extension work.

Oregon Department of Transportation (ODOT) commented:

"Silver Falls Highway (OR214) is under jurisdiction of Oregon Department of Transportation and the new proposed access for this partition will require a permit through District 3."

Marion County Tax Assessor's Office provided comments about the tax status of the property and requirements to pay all potential tax liabilities before the final partition is recorded.

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

6. Chapter 17.181 MCC establishes provisions for partitioning property in an SGO zone. In the SGO-5 zone, creating a parcel less than five acres in size requires the applicants to submit a "Hydrology Review" meeting the provisions listed in MCC 17.181. The applicants provided a review by EnviroLogic Resources, Inc; the review indicates that there is a sustainable long-term supply of ground water for the proposed development. However, the County requires a Declaratory Statement be recorded with the property deed. This notifies the applicant and subsequent owners that there may be long-term groundwater supply problems and that the County is not responsible for deepening or replacing wells. The County also requires submission of static water level measurements prior to recording the plat for all existing wells, and prior to building permits for all undeveloped parcels. The criteria are met.

7. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres and the new parcels are consistent with this standard. When a numerical suffix has been applied to the AR zone, the minimum lot size shall conform to the numerical designation; in this case the zone is **AR-3**. Therefore, the **minimum lot size shall be three (3) acres**. Subsequently, the proposal meets the criteria for partitioning in the AR-3 zone.
8. Chapter 17.128.050 MCC establishes special siting 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 when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses.*
 - (b) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

The special setback section does not apply as the subject parcel is not adjacent to any resource zoned land.

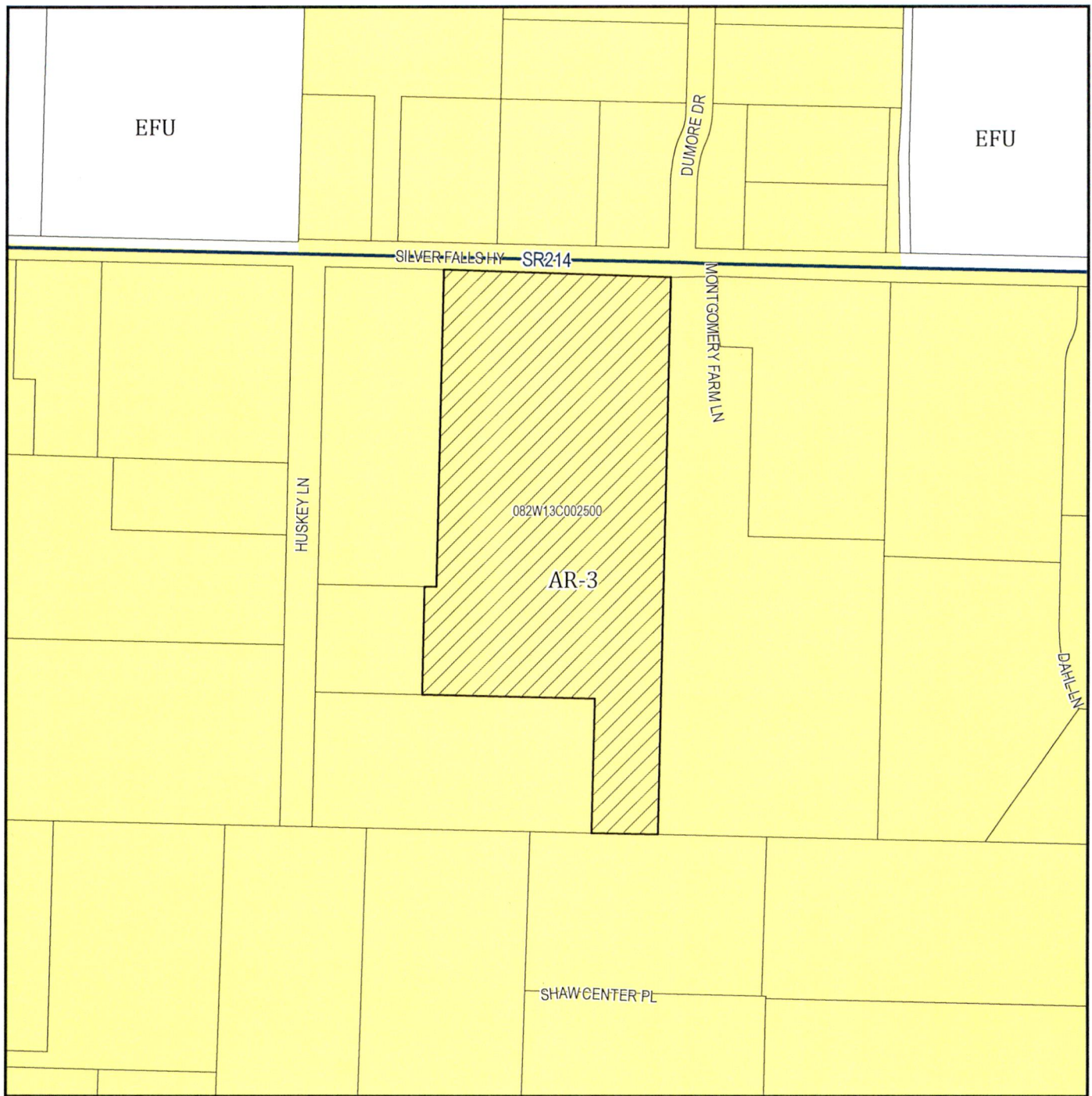
9. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 9th, 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): 082W13C002500

Owner Name: SANTOS & GRACIELA GARCIA TR
GARCIA, SANTOS F GARCIA,
GRACIELA L
Situs Address: 8838 SILVER FALLS HWY SE
City/State/Zip: AUMSVILLE, OR, 97325
Land Use Zone: AR-3
School District: CASCADE
Fire District: AUMSVILLE

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 269 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.