

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/VARIANCE CASE NO. 25-012**

**APPLICATION:** Application of the Michael and Kerri Seaman Living Trust to partition a 4.02-acre parcel into two parcels consisting of 2.0-acres and 2.02-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 9461 Donald Ln SE, Turner (T9S; R2W; Section 6B: Tax Lot 3900).

**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 **June 11<sup>th</sup>, 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. Per ORS 92.050, the plat must be submitted for review. Checking and recording fees are required. Finally, 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 reports.
2. Prior to recording the plat, the applicants shall obtain any building permits required by Marion County Building Inspection Division, including any septic site evaluations required by Marion County Septic.
3. Parcel 1 as identified on the applicant's site plan shall retain the **9461 Donald Ln SE** address. Parcel 2 as identified on the applicant's site plan shall be assigned the address: **9451 Donald Ln SE**.

**Prior to issuance of building permits on the resulting parcels,**

4. The partition plat shall be recorded.
5. 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.
6. The applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
7. The applicants shall continue to implement the well monitoring plan submitted as part of the approval for case SUB21-002, including the annual static water level measurements.

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

8. 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 two acres in size.
9. 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:

10. 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).
11. The applicants should contact the Jefferson 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.
12. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 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 \$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 11<sup>th</sup>, 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 12<sup>th</sup>, 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 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 and the EFU zone promotes commercial farming operations.
2. The subject parcel is located at 9461 Donald Ln SE on the north side of Cloverdale Dr SE, immediately north of the intersection between 39<sup>th</sup> Ave SE and Cloverdale Dr SE, and is currently undeveloped. The parcel was created in it's current configuration by subdivision case SUB21-002 as Lot 7 of the Field of Dreams Estates Subdivision and is legal for land use purposes.
3. Surrounding uses are mostly acreage homesites, with all immediately adjacent parcels zoned AR. Further to the southeast and southwest are SA zoned parcels in use as acreage homesites, small sized agricultural operations, or are predominantly forested parcels. Finally, 1,200 feet to the north are large EFU (Exclusive Farm Use) parcels in use as large scale commercial agriculture.

4. The applicant proposes to partition a 4.02-acre parcel to create two parcels consisting of 2.00-acres and 2.02-acres and to take a variance to MCC17.110.800, which limits the number of dwelling that access a public road through a private road easement to 4, by allowing a 5<sup>th</sup> dwelling without public road frontage to access off Donald Ln.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Survey Department commented:

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.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

### **ENGINEERING REQUIREMENTS**

- A. Driveway access shall be derived from Donald Lane; no direct access to Cloverdale Road will be allowed.
- B. Roof drains shall be piped to discharge to the stormwater ditch situated within a drainage easement along the west side of Donald Lane.

Turner Fire District commented:

1. Fire service features including fire apparatus access and fire protection water supplies are required to comply with the 2022 Oregon Fire Code (OFC). In order to assist applicants, design professionals, and developers, fire agencies throughout Marion County have provided the 2024 Marion County Fire Code Applications Guide (MCFCAG). The following links to the OFC and the MCFCAG are provided as follows.
  - a. The 2022 Oregon Fire Code contains the currently adopted fire and life safety regulations for the State of Oregon. The full text of the OFC is available through the International Code Council's website at the following link: <https://codes.iccsafe.org/content/ORFC2022P1>
  - b. The 2024 Marion County Fire Code Applications Guide contains guidelines established by the fire agencies throughout Marion County to assist designers and applicants with how OFC requirements are to be applied to their projects.
    - i. The following link to the 2024 MCFCAG is provided on the Turner Fire District website:
    - ii. Click the "Public Information" link at the bottom of the main page.
    - iii. Click the "Rural Access Standards" link. This opens the MCFCAG document which is located at the following link:  
[https://www.turnerfire.com/content/files/M\\_C%20App%20Guide%207-2024\(3\).pdf](https://www.turnerfire.com/content/files/M_C%20App%20Guide%207-2024(3).pdf)

Marion County Septic commented: "Based on review of the previous site evaluation and modifications to the property both proposed parcels will require site evaluations."

Marion County Building commented: "No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property."

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 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.

In 2021 there was an approved, peer reviewed Hydrogeology Review submitted in conjunction with land use case SUB21-002, which is the land use case that created the parcel which is now the subject of this proposal. That Hydrogeology Review looked at the impact of an 8-lot subdivision on the existing groundwater situation. The applicants received approval for subdivision case SUB21-002 which resulted in 7 of the 8 lots approved by the Hydrogeology Review being created. As such, under the existing review, there is still the ability to create one more lot within the reviewed area, contingent upon there being no new development within the quarter mile radius that was the Hydrogeology Review's evaluation area. As of the time of application for this Partition, there has been no approved or applied-for applications for Partitions or Subdivisions within the 2021 Review's evaluation area, and all new developments have occurred within the Subdivision that was granted approval because of that Review. Therefore, with this new proposal of a new lot, it is viewed with regards to this section as a second phase of the subdivision approved by the 2021 Hydrogeology Review—completing the full extent of development determined to be sustainable through the Hydrogeology Review.

Additionally, the applicant has provided the first of the required observation well static water level measurements as required by the peer reviewed and approved well monitoring plan required as a condition of approval for SUB21-002. This observation well measurement shows no signs of significant decline in local groundwater levels. In this situation, Staff views this proposal as functionally a second phase of the subdivision, so the observation well measurements are sufficient to allow the next phase of the subdivision to continue, as outlined under MCC 17.181.120 (B).

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 created through this application.

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. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
8. In order to obtain a variance the proposal must meet the criteria in found in Section 17.122.020 of the Marion County Rural Zone Code (MCC). These criteria are:
  1. *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of the ordinance; and*

The applicant states that based on the engineering and planning of the previously approved subdivision (SUB21-002) the lots must be configured such that the proposed Parcel 2 of this application does not have frontage to a public right-of-way for access. The first reason is that a condition of approval for SUB21-002 from Marion County LDEP was to close all direct access off Cloverdale Dr and take all access off Donald Ln, including for the existing lot that has full right-of-way frontage on its south side (see SUB21-002, Condition #3B). Second, the applicant explains that the construction of the rural services, including the storm water engineering and drain field planning, are built allow flow downhill towards the east. Configuring the lots such that they both have frontage along Cloverdale Dr would require siting a house farther from the eastern portion of the property, resulting in an increased cost to extend service lines to rural utilities already in place along Donald Ln. By developing the new lot in consonance with the subdivision plan, it reduces the cost for development, keeps the new parcel in harmony with existing and in-progress development, and complies with the requirements of Marion County LDEP. Therefore, the criterion is met.

2. *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 elaborated under criterion #1 above, the applicants were required as a condition of approval for SUB21-002 (Condition #3B) to close all direct access to Cloverdale Rd and consolidate traffic from the development onto Donald Ln. In comments received by staff from Marion County LDEP for this application, they remained consistent, noting a requirement for the development is to ensure all access is off Donald Ln. Due to this specific requirement by Marion County LDEP, there is a specific, unusual condition that applies to this site which necessitates a variance to the specific standard outlined under MCC 17.110.800. The criterion is met.

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

The applicants are requesting to vary the standard by 1 parcel, which is the minimum possible. The criterion is met.

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

The applicant states that the proposed additional lot will have a minimal impact on the property and access easement improvements because the proposed additional lot is the closest to the connection of Donald Ln to Cloverdale Dr. As such, the people accessing this parcel will cross the least amount of Donald Ln, meaning their trips will impact the improved easement surface less than the other lots. Additionally, the applicant is proposing to develop the property with a single-family dwelling, which is unlikely to generate traffic, pollution, or other disturbances that would constitute a significant adverse affect, assuming typical residential levels. Therefore, the criterion is met.

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

Similar to the criterion section above, the addition of one single-family dwelling accessing off Donald Ln is unlikely to significantly impact the health and safety of persons working or residing in the vicinity, as the proposed use is to develop the lot with a dwelling. The reasonably anticipated levels traffic, pollution, or other threats to health and safety generated by a single-family dwelling are minimal assuming the development complies with all relevant safety and engineering standards. Therefore, the criterion is met.

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

The intent and purpose of the provision limiting the number of dwellings that take access to a public street off a private road easement is primarily for safety. Since private road easements are not maintained by the County, the quality of the surfacing, repairs, or clearing of obstructions is the responsibility of those subject to the easement agreement. In this situation, the applicants' proposal increases the number of dwellings utilizing Donald Ln by one dwelling. As addressed in the preceding two criteria, the additional dwelling is unlikely to create a safety hazard through increased degradation of the private road improvements or through the impacts that a single family dwelling is reasonably anticipated to generate. Therefore, the proposed variance still maintains the purpose and intent of the provision. The criterion is met.

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

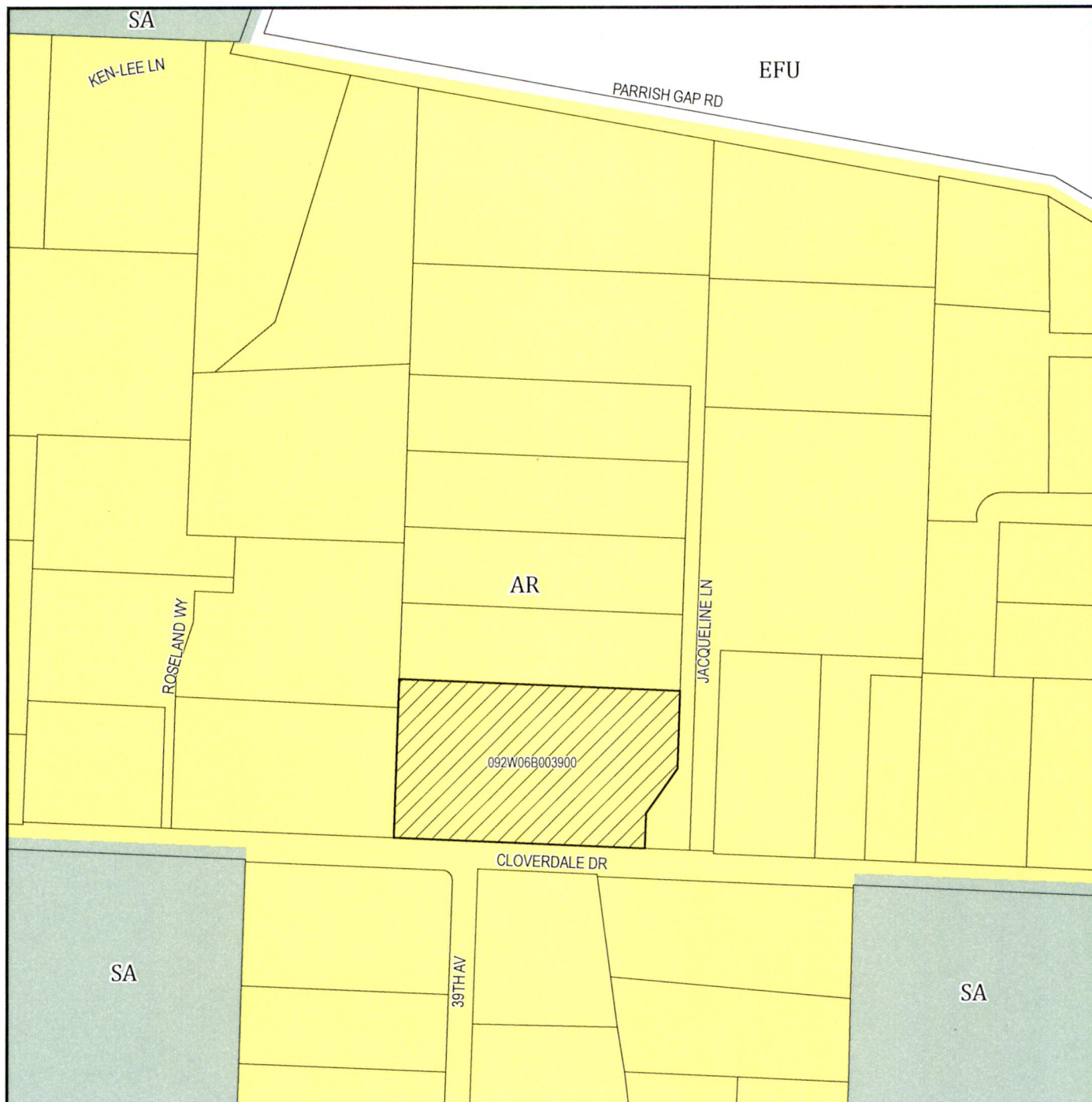
Brandon Reich  
Planning Director/Zoning Administrator

Date: May 27<sup>th</sup>, 2025

If you have any questions regarding this decision contact Alexander Seifer 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): 092W06B003900

**Owner Name:** MICHAEL & KERRI SEAMAN LT  
SEAMAN, MICHAEL W SEAMAN, KERRI  
L

**Situs Address:** 9461 DONALD LN SE

**City/State/Zip:** TURNER, OR, 97392

**Land Use Zone:** AR


**School District:** CASCADE

**Fire District:** TURNER

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 289 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.