

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
CONDITIONAL USE CASE NO. 19-007**

APPLICATION: Application of Oregon Parks and Recreation Department for a conditional use to expand Silver Creek Falls State Park by adding a visitor's center on a 5.97 acre parcel in a FT (Farm Timber) zone located at 21125 Hult Road SE, Silverton. (T8S; R1E; Section 12; tax lot 101).

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

EXPIRATION DATE: This conditional use permit is valid only when exercised by **March 13, 2021**. 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels 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: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain all required permits from the Marion County Building Inspection Division.
2. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

***Condition A** - Prior to application for building permits and/or commencement of earthwork activity that may affect Hult Road, apply for and obtain approval of road vacation for Hult Road public right-of-way.*

***Condition B** - If vacation of all or a part of Hult Road were to be approved, prior to application for building permits and/or commencement of any access related earthwork activity, either dedicate new public right-of-way or record access easements, as ultimately may be determined by order of the Board of Commissioners, on behalf of any property that is otherwise served by Hult Road.*

***Condition C** - If vacation of all or a part of Hult Road were to be approved, prior to application for building permits and/or commencement of any access related earthwork activity, submit civil engineering plans to MCPW Engineering for review and approval of a new public roadway or private access road, respectively, to PW Engineering standards, and acquire related permits from PW Engineering and/or ODOT for the work. Prior to issuance of a Certificate of Occupancy, gain final construction inspection acceptance from PW Engineering and ODOT of the access and road related permitted improvements.*

***Condition D** - Prior to application for building permits, submit to and obtain approval of a Traffic Assessment Letter from Marion County Public Works Traffic Engineering.*

***Condition E** - Prior to application for building permits, submit a civil engineering site plan to Public Works Engineering for review and approval that includes grading elements*

3. Prior to building permits, the applicant shall sign and submit a Declaratory/Farm-Forest Statement (enclosed) 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.

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

4. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
5. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

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. The applicant is advised of the following:

6. The applicants should contact the Drakes 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.
7. The applicants should contact Oregon Department of Transportation to obtain necessary permits. Contact Leia Kagawa at (503)968-6903.
8. 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 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 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 in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **March 13, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 14, 2019** unless further consideration is requested.

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

1. The subject property is designated Farm Timber in the Marion County Comprehensive Plan and zoned FT (Farm/Timber). The purpose of the Farm/Timber zone is to maintain properties for farm and timber use. Campgrounds may be approved subject to the criteria in the zone.
2. The subject property is located on the northeast corner of Hult Rd SE and Silver Falls Dr SE. The property identified as tax lot 101 contains a dwelling and septic system. The property was created by Partition Case 91-44 which also approved a dwelling on the property.
3. Properties in all directions are zoned FT and in a combination of farm and forest use. Property to the southwest is zoned TC and is developed as Silver Falls State Park.

4. The applicants are proposing to expand Silver Falls State Park to include a new visitor center and parking lot.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use case:

“Condition A - Prior to application for building permits and/or commencement of earthwork activity that may affect Hult Road, apply for and obtain approval of road vacation for Hult Road public right-of-way.

Condition B - If vacation of all or a part of Hult Road were to be approved, prior to application for building permits and/or commencement of any access related earthwork activity, either dedicate new public right-of-way or record access easements, as ultimately may be determined by order of the Board of Commissioners, on behalf of any property that is otherwise served by Hult Road.

Condition C - If vacation of all or a part of Hult Road were to be approved, prior to application for building permits and/or commencement of any access related earthwork activity, submit civil engineering plans to MCPW Engineering for review and approval of a new public roadway or private access road, respectively, to PW Engineering standards, and acquire related permits from PW Engineering and/or ODOT for the work. Prior to issuance of a Certificate of Occupancy, gain final construction inspection acceptance from PW Engineering and ODOT of the access and road related permitted improvements.

Condition D - Prior to application for building permits, submit to and obtain approval of a Traffic Assessment Letter from Marion County Public Works Traffic Engineering.

Condition E - Prior to application for building permits, submit a civil engineering site plan to Public Works Engineering for review and approval that includes grading elements.”

LDEP also requested that the following Requirements included:

“F. The following numbered sub-requirements are access related:

- 1) Access to Silver Falls Drive for any property served by Hult Road shall not be cut-off.*
- 2) An Access Permit from PW Engineering is required for direct connection to Hult Road. However, please note that the development will not be granted approval by PW Engineering to bifurcate and/or have multiple skewed access connections to Hult Road as depicted on the land use application site plan.*
- 3) Continuous legal and physical access to Silver Falls Drive for properties served by Hult Road must be maintained in conjunction with active development.*
- 4) Silver Falls Drive is under the jurisdiction of ODOT. Therefore, ODOT access approval for direct access to Silver Falls Drive is required prior to issuance of building permits.*

G. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #00-10R.

H. Stormwater detention may be required for 0.5-acre or more of development.

I. Prior to issuance of a Certificate of Occupancy, record a Road Maintenance Agreement affecting the subject properties for any newly established shared access easement and/or Local Access Road not maintained by Marion County.”

LDEP advises the applicant of the following:

J. According to Marion County GIS records, there are NWI mapped wetlands in the southwest corner of the property.

K. The DEQ administers the NPDES 1200-C erosion permit for 1 acre or more of ground disturbing activity.

L. Prior to filing for road vacation the Applicant is advised to verify that ODOT will approve a new public road or private access easement connection at or proximate to the proposed location.”

Marion County Building Inspection commented that permits will be required.

Marion County On-Site Sewage commented that septic permits will be required.

Drakes Fire District provided comments regarding fire protection standards.

Oregon Department of Transportation commented that permits will be required for work within the ODOT R/W, an approach to a highway, and connecting to the ODOT drainage system, to include open ditches. Permit approval is subject to ODOT review. Future site development will require additional review and permits.

6. In order to approve an expansion of Silver Creek Falls State Park to construct a visitor center the applicant must demonstrate compliance with the specific criteria listed in MCC Chapter 17.139.050(H):

Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).

MCC Chapter 17.139.070(B) requires a Declaratory Statement:

The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

This can be made a condition of any approval.

7. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in MCC 17.139.060(A). Those requirements are:

- (a) *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.*
- (b) *The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*
- (c) *Adequate fire protection and other rural services are or will be available when the use is established.*
- (d) *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*
- (e) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
- (f) *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

The August 2009 Master Plan for Silver Falls State Park proposes to expand the park on the south side of Silver Falls Dr SE to include the subject property by remodeling and converting the existing unfinished residence to a visitor center, as well as developing the park property around the visitor center and parking area. This will, in the future, include restrooms, information and orientation center, snack shop, dining hall, conference room, administrative offices and storage, facility specific septic system, generator, firefighting water storage tank and hydrant. Drakes Fire District provides fire protection and Marion County provides law enforcement to the property. Other rural services, such as a septic system and well, are available to the property. There is no evidence to indicate that the use will have a negative impact on nearby lands devoted to farm use. The property is not within a wildlife habitat area or geologically hazardous area. There is no evidence of significant odors or

noxious matter emitted from the premises that would affect air or water quality. Noise generated by the proposed activity should be comparable to agricultural activities. The proposal meets 7(a), (b),(c),(d), (e) and (f).

8. Based on the above findings it has been determined that the applicants' request meets all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: February 26, 2019

If you have any questions regarding this decision contact Patty Dorr 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.