

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. 19-003**

APPLICATION: Application of The Bridges Foundation to divide a 110 acre parcel into two parcels containing 102 acres and 8 acres each in an EFU (Exclusive Farm Use) zone located at 12971 Marion Rd SE, Turner (T9S; R2W; Section 22; tax lot 800).

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

EXPIRATION DATE: This permit is valid only when exercised by **April 19, 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:

Prior to submitting a final partition plat:

1. **The applicant shall complete the conditions and requirements of the previously approved Property Line Adjustment 18-007 as follows:**
 - (a) **A replat shall be recorded with the Marion County Clerk meeting requirements identified in ORS 92.185(6) and ORS 92.050.** The replat shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 18-007. (Final Plat Instructions enclosed).

Prior to recording the final plat:

2. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 19-003. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
3. The applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:

Condition A – Prior to plat approval, obtain an Access Permit and under the permit close one side of the looped driveway to the home and construct the access to meet Marion County Engineering Standards.

5. The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.

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

6. 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.
7. 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 thereon. It is recommended that agencies mentioned in Finding #6 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. Prior to recording the plat all taxes due must be paid to the Marion County Tax Office (at 503-588-5215 for verification of payments).
9. 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 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 **April 19, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 20, 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 Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding EFU (Exclusive Farm Use) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the west side of Marion Rd SE and between Marion Rd SE and Woodpecker Dr SE approximately 2,250 feet south of its intersection with Marion Rd SE. The 110 acre parcel identified as tax lot 800 contains an existing dwelling, farm structures, well and septic system. The subject parcels is in the process of being created by Property Line Adjustment 18-007, which will be conditioned to be completed prior to filing this partition plat.
3. Surrounding properties in all directions are in farm use in an EFU zone.
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is high-value farm soils.
5. The applicants propose to divide a 110 acre parcel into two parcels containing 102 acres and 8 acres each. The proposed 102 acre parcel will be used for a not-for-profit land conservation organization to conserve and restore

the parcel as a native habitat. The remaining 8 acres will remain in pasture and crop ground and will contain the existing dwelling, farms structures.

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

Engineering Conditions:

“Condition A – *Prior to plat approval, obtain an Access Permit and under the permit close one side of the looped driveway to the home and construct the access to meet Marion County Engineering Standards.*

Nexus is to meet PW Engineering access criteria in terms of spacing and number of allowable accesses to a Major Collector road in accordance with Marion County Code (MCC) 11.10 and Marion County Rural Transportation System Plan (MCRTSP) and to meet Marion County Engineering Design Standards. Minimum access spacing on a Major Collector road is 300 feet. In accordance with the MCRTSP Section 10.3.5, Policy #10a: The number of access points on Arterial and Major Collector roadways shall be kept to a minimum to reduce the interruption to traffic flow and to promote safety Driveways must meet sight distance, design, spacing, and safety standards. Access is typically an Engineering Requirement but has been elevated to a Condition as a matter of timing.”

Engineering Requirements:

“B. In accordance with MCRTSP Policy #10b: Properties that are subdivided or partitioned should share a common access. No new access will be permitted from Marion Road.”

Engineering Advisories:

“C. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.

D. Per the MCRTSP, this section of Marion Road is classified as a Major Collector. MCC17.112.020 stipulates a Special Setback of 40 feet measured from the centerline of the street right-of-way applicable on Major Collectors, and from which standard zoning setbacks are measured. Please note county records indicate that the current right-of-way half-width is less than 40 feet.”

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee, second mylar fee, and recording fee required. A current or updated title report must be submitted at the time of review. Title reports shall be no less 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 On-Site Sewage commented that an existing septic system evaluation will be required.

Marion County Tax Assessor provided comments on taxes on the subject properties.

7. The criteria for reviewing division of lands within an EFU zone are listed in Chapter 17.136.090(A) of the Marion County Code (MCC). However, MCC 17.136.090(B)(5) states:

If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:

- a. *A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.*
- b. *A parcel created pursuant to this subsection that does not contain a dwelling:*
 - i. *Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;*
 - ii. *May not be considered in approving or denying an application for siting any other dwelling;*
 - iii. *May not be considered in approving a redesignation or rezoning of forest lands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use.*

The applicant is proposing to divide a 110 acre parcel into two parcels containing 102 acres and 8 acres each. The 102 acre parcel will be used for a not-for-profit land conservation organization to protect unaltered ecosystems. The property has Oregon White Oak, mature native trees and a site for upland prairie restoration. The remaining 8.0 acre parcel will remain in farm use and contains an existing dwelling. The proposal meets MCC 17.136.090(B)(5). The reconfiguration will not result in the removal of any land from agriculture production. The criteria in #7 are met by the proposal.

8. Based on the above findings and conclusions, the applicant's proposal meets the criteria for partitioning in an EFU zone is, therefore, **APPROVED** subject to meeting certain conditions.

Joe Fennimore
Planning Director

Date: April 4, 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.