

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.21-013**

APPLICATION: Application of Re No Two LLC to divide a 5 acre parcel into two parcels containing 2.0 acres and 3 acres each in an AR (Acreage Residential) zone located at 2239 Steiwer Road SE, Jefferson. (T9S; R3W; Section 14D; Tax Lot 300).

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 **September 14, 2023**. 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. 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 21-013. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **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.**
3. Engineering Conditions:

***Condition A** – On the subdivision plat, dedicate 30 feet of public R/W half-width along the entire Steiwer Road public R/W frontages, including the unopened northerly extension. Also dedicate a 30-foot southeast property corner radius.*

***Condition B** – Prior to Plat approval, design, permit and construct a Steiwer Road graveled widening frontage improvement consisting of 11-foot travel lane, 5-foot shoulder and up to 8-foot wide drainage ditch relocation earthwork, measured from R/W centerline, plus roadside vegetation clearing to improve sight distance around the curve.*

***Condition C** – Prior to plat approval; close the proposed south parcel's east access as a matter of vehicular safety.*

4. The parcels shall be assigned addresses as follows when a partition plat is recorded:
Parcel 1: **2239 Steiwer Rd. SE**
Parcel 2: **2269 Steiwer Rd. SE**

Prior to issuance of building permits on the resulting parcels,

5. The partition plat shall be recorded.
6. 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.
7. 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.
8. The applicant is advised that per MCC 17.128.050, any new dwelling on either proposed parcel must maintain a special dwelling setback of 100 feet from any parcel in a resource zone, including EFU and SA zones.
9. The applicant shall sign and submit a Farm/Forest 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.

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 two 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. 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 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.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, 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 \$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 **September 14, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 15, 2021** 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 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.
2. The subject parcel is located .65 miles east of the intersection of Steiwer Rd. SE and Jefferson Hwy SE, just southwest of Interstate-5. The subject parcel is developed with the one home and proposes one additional home site. The parcel is described as Lot 5 of the Steiwer Fruit Farms Subdivision, which was recorded on July 19, 1907, and is therefore considered a legal parcel for land use purposes.
3. Surrounding uses are residential in all directions except parcels to the north that are currently being farmed. Properties are zoned AR (Acreage Residential) in all directions except north which is zoned EFU. Lot sizes range from less than 2 acres to less than 10 acres all of which are zoned Acreage Residential.
4. The applicant proposes to partition a 5.0 acre parcel into two parcels of 2.0 and 3.0 acres each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITIONS

***Condition A** – On the subdivision plat, dedicate 30 feet of public R/W half-width along the entire Steiwer Road public R/W frontages, including the unopened northerly extension. Also dedicate a 30-foot southeast property corner radius.*

R/W dedication requirements for partitions are in accordance with Marion County Code (MCC) sections 14.172.200 & 240. Nexus for this Condition is to achieve the Local Road standard in support of immediate and/or future construction of public road improvements to serve the development as well as traveling public, and space for utilities.

***Condition B** – Prior to Plat approval, design, permit and construct a Steiwer Road graveled widening frontage improvement consisting of 11-foot travel lane, 5-foot shoulder and up to 8-foot wide drainage ditch relocation earthwork, measured from R/W centerline, plus roadside vegetation clearing to improve sight distance around the curve.*

Nexus is to provide sufficient access to the development per MCC 17.172.140 & 320. The Steiwer Road driving surface width is currently insufficient to safely pass two-way traffic.

***Condition C** – Prior to plat approval; close the proposed south parcel's east access as a matter of vehicular safety.*

The east driveway is too close to the roadway horizontal curve to the east to allow adequate Intersection Sight Distance. Furthermore, its utility appears to be redundant considering the nearby access to the west.

ENGINEERING REQUIREMENTS

- D. In accordance with MCC 11.10, driveways must meet sight distance, design, spacing, and safety standards. An Access Permit will be required upon application for building permits for a future dwelling on the developable parcel.

- E. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits.
- F. Any work, including utility work within the public right-of-way such as electrical interconnection for example, will require separate permits from Public Works.

Marion County Surveyor's Office commented:

1. Parcels ten acres and less must be surveyed.
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 Tax Assessor provided information on the subject property's property taxes for the year which are paid.

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

6. 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.
7. 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. The applicant has provided the results of the hydrology review and of which they are positive. The ground water can support the proposed parcels. The applicant will still be required to sign and record an "SGO Declaratory Statement" before building permits may be issued as well as provide a static water level measurement.
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.*
9. The subject property borders a resource zone to the north and with special setbacks will not affect the proposed home sites. The criterion in #8(a) is met. The filing of a declaratory statement for Farm/Forest use has been made conditions of approval. The criterion in #8(b) is met.
10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: August 30, 2021

If you have any questions regarding this decision contact Lindsey King 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.