

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. 22-010**

APPLICATION: Application of Donald M. Kelley on behalf of Fox Land Company, LLC to partition a 235-acre parcel into 2 parcels consisting of 115 acres and 120 acres in a Special Agriculture (SA) zone located at the 11000-block of Summit Loop SE, Salem. (T9S, R3W, Section 13, Tax Lot 900, 1000 and T9S; R2W; Section 19, Tax lots 600, 700, 900, 1000).

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 **October 27, 2024**. 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 ORS 92.050, the applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036). Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. 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.
3. 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 Finding #4 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

4. 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).

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

October 27, 2022. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 28, 2022,** 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 SA (Special Agriculture) zone is to promote the continuation of commercial agricultural operations.
2. The subject tax lots are located on the southwestern side of Summit Loop Rd SE. The lots have no structures other than a telecommunications facility. The property is currently in commercial agriculture production. The property was legally created as a result of Major Partition 79-016.
3. Surrounding uses are farm or forest uses in all directions. This area contains grass seed farms, Christmas tree farms and land with timber stands. Adjacent zoning is SA in all directions except south where a small portion of AR (Acreage Residential) zoning touches the property. Most surrounding parcels contain dwellings.
4. The applicant proposes to partition a 235-acre parcel into 2 parcels consisting of 115 acres and 120 acres.
5. Marion County Survey commented:
 1. Per ORS 92.055 – Parcels over 10 acres can be unsurveyed.
 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.

Turner Fire District commented regarding their Fire Apparatus Access and Fire Protection Water Supply Standards:

“Will the fire apparatus access roadway which is routed through Parcel 2 be maintained by way of a dedicated easement from North Summit Loop access to the cell tower site?

Will the fire apparatus access roadway which is routed through Parcel 1 be maintained by way of a dedicated easement from South Summit Loop access to the cell tower site?”

Marion County Tax Assessor provided comments related to the subject property's property taxes.

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

6. The criteria for reviewing division of lands within an SA zone are listed in Chapter 17.137.090 (A) of the Marion County Code. These criteria are as follows:
 - A. *Minimum Parcel Size for Newly Created Parcels.*
 1. *Farm Parcels. The minimum parcel size for any new parcel in the SA zone is 80 acres, except as provided in subsection (A)(2) of this section.*

The two parcels being created will each be over 80 acres at 115 and 120 acres respectively. The criterion is met.

2. *Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.*

The parcels being created are farm parcels. The criterion does not apply.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: October 13, 2022

If you have any questions regarding this decision contact Austin Barnes 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.