

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
ADMINISTRATIVE REVIEW CASE NO. 20-027**

APPLICATION: Application of Tukwila Development, LLC, on property owned by Oregon Golf Association Members Club Inc., for an administrative review to place a sanitary sewer line as utility facility necessary for public service on a 60.98 acre parcel in an EFU (Exclusive Farm Use) zone located in the 16970 Boones Ferry Rd NE, Woodburn. (T5S; R1W; Section 6D; tax lot 501)).

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

EXPIRATION DATE: This decision is valid only when exercised by **November 13, 2022** unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should check with 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 applicants shall obtain all permits, required by the Marion County Building Inspection Division.
2. The location of the Sanitary Sewer line shall substantially conform to the site plan submitted with the application. Modifications or variations are allowed upon review and approval of the Planning Director.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect any 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 any restrictions or conditions thereon.

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 deny the application. Anyone who disagrees with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 4:00 p.m. on **November 13, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 14, 2020** unless appealed.

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 and zoned EFU (Exclusive Farm Use). The intent of both designation and zone is to promote and protect commercial agricultural operations.

2. The subject property is located on the east side of Boones Ferry Rd NE approximately 0.13 miles south of its intersection with Crosby Rd NE. The property is developed as a golf course and is considered a legal parcel for land use purposes.
3. Surrounding properties to the west are zoned UT-20 (Urban Transition 20), north and northeast are zoned EFU (Exclusive Farm Use) and contain parcels that are being farmed and have developed single family homes. Properties to the south and southeast are within Woodburn City limits.
4. The applicants are proposing to place sanitary sewer line as utility facility necessary for public service on the subject property and to facilitate future growth. The facility will consist of either 2,000 feet (Alternative 1) or 3,000 feet (Alternative 2) of extension. The sewer line, along with associated equipment will be placed within a 30 foot construction easement, to be located in the EFU zone.
5. Soil Survey of Marion County Oregon indicates 87.1% of the subject property is high-value farm soils.
6. Marion County Building Inspection commented that plumbing permits may be required.

All other contacted agencies either failed to respond, or stated no objection to the proposal, at the time this report was written.

7. The criteria for approving a utility facility necessary for public service is found in Marion County Code (MCC) Chapter 17.136.040 (I) and includes:

Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the EFU zoning in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors as found in OAR 660-33-130(16):

1. *Technical and engineering feasibility;*
2. *The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Exclusive Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*
3. *Lack of available urban and non-resource lands;*
4. *Availability of existing right-of-way;*
5. *Public health and safety; and*
6. *Other requirements of state and federal agencies:*
 - a. *Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.*
 - b. *The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.*
 - c. *The applicant shall address the requirements of MCC 17.136.060(A).*
 - d. *In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.*
 - e. *The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.*

8. The proposed sanitary sewer line is part of an extension to handle future development of a residential subdivision, applicant states up to 90 new homes. The applicant presented two alternative locations, one located on the golf course (alternative 1) and the other (alternative 2) located on Boones Ferry Rd. The location of the proposed sewer line (alternative 1) will prevent disruption of NE Boones Ferry Road, a major collector/arterial rural road. Another significant factor to the selection of an appropriate sanitary sewer alignment was the Vanderbeck Lane NE sewer pump station. The current station is not expected to have excess capacity for an additional 90 single family dwelling or any other expansion of urban development in the area of the UGB. As it currently sits, a capacity study will need to be undertaken so see is any, what upgrades would be required for the facility to serve future residential projects, which would likely show that the project at this location would be cost-prohibited.

The sewer line is to be installed via trench cut excavation (typically between 3-6 feet in width) to generally 20-25 feet in depth for the majority of the line length. The trench will be backfilled with native materials, except the areas of golf cart pathway. The criterion listed above in 7 ((6) a and b) are met and the criteria in 7 ((6) d and e) do not apply.

The applicants propose to use a section of land off the southeast corner of the subject property to accommodate the use. This area will have a temporary easement for the duration of work, on both sides of the permanent utility easement. It will create no adverse impacts on surrounding residential lots or farmed lands and, due to construction methods the use of the land will be able to immediately continue once construction is finished. All necessary services are currently available at the site. The property is not located within a unique or specially classed watershed area, sensitive groundwater, geohazard, or identified floodplain. There will be no septic systems associated with the facility there will be no air or water pollutants generated by the facility. The applicant indicates that the facility will generate no noise levels once complete. In addition, it is buffered from neighboring properties by vegetation and distance. There should no adverse noise impacts on any nearby land uses. The Marion County Comprehensive Plan identifies no potential water impoundments or significant mineral and aggregate sites in the area. The criterion listed above in 67((6)(c) 1-5) are met.

10. Based on the above findings, the proposal to establish a utility facility necessary for public service in an EFU zone. This request is, therefore, **APPROVED**, subject to conditions.

Gilman Fennimore
Director-Planning Division

Date: October 29, 2020

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.