

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. 20-008**

**APPLICATION:** Application of Michael and Brenda Thompson to divide a 4.55 acre parcel into two parcels containing 2.27 acres and 2.28 acres each in an AR (Acreage Residential) zone located at 5227 Witzel Rd. SE, Salem. (T8S; R2W; Section 16D; tax lot 500).

**DECISION:** The Planning Director for Marion County has **APPROVED** a proposal to divide a 4.55 acre parcel into two parcels of 2.23 and 2.23 acres subject to certain conditions.

**EXPIRATION DATE:** This approval is valid only when the final partition plat is recorded by **April 22, 2022**. 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). 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. 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 of two acres in size, prior to any right-of-way dedication.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

***Condition A** – On the plat, dedicate sufficient public right-of-way half-width on Witzel Road to achieve 30 feet and a 30-foot southeast property corner radius..*

***Condition B** – Prior to plat approval, obtain an Access Permit, and under the Permit, permanently close the parent residence south loop driveway approach connection to Witzel Road including re-establishing the roadside ditch (at that specific location) due to insufficient Intersection Sight Distance.*

**Prior to issuance of building permits on the resulting parcels,**

5. The partition plat shall be recorded.
6. The applicant shall sign and submit a Farm/Forest Declaratory 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:

7. 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.
8. 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:

9. 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).
10. The applicants should contact the Marion County Fire District No. 1 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. **Please contact Paula Smith at MCFD#1 (503) 588-6513 for these regulations.**
11. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirement listed in Finding #6 below.

**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

**April 22, 2020.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 23, 2020** 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 at the intersection of Witzel and Lipscomb Roads. The property was by a deed recorded on November 10, 1975 (Reel 31, Page 108) and is considered a legal lot for land use purposes.

3. Properties to the north, east, and west are zoned AR (Acreage Residential) and developed with residential uses. Property to the south is split zoned EFU and AR and consists of large sized farm parcels not developed with dwellings.
5. The applicant proposes to divide a 4.55 acre parcel into two parcels containing 2.27 acres and 2.28 acres each.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions, requirements and advisories be included in the land use decision:

*Condition A – On the plat, dedicate sufficient public right-of-way half-width on Witzel Road to achieve 30 feet and a 30-foot southeast property corner radius.*

The above Condition is in accordance with Marion County Code (MCC) Sections 17.172.200 & 240 by which adequate right-of-way bordering the subject property shall be dedicated in the event of a partition. The additional right-of-way is needed for general road safety and drainage features, as well as utilities.

*Condition B – Prior to plat approval, obtain an Access Permit, and under the Permit, permanently close the parent residence south loop driveway approach connection to Witzel Road including re-establishing the roadside ditch (at that specific location) due to insufficient Intersection Sight Distance.*

Access criteria are an Engineering standard in accordance with MCC 11.10; however, it is being elevated to Condition status as a matter of timing for completion. Due to the presence of a roadway vertical crest curve, available vision to/from the south access only meets 75% of the required Stopping Sight Distance, and therefore, presents a potential traffic hazard. Please note that internal driveway surfacing on private property may remain in place.

#### ENGINEERING REQUIREMENTS

The following will be included in Planning's Staff Decision.

- C. In accordance with Marion County Code 11.10, driveways shall meet spacing, design and safety standards. An Access Permit will be required upon application for building permits for the proposed north parcel. The location of access on Witzel Road for the proposed north parcel will need to be situated between 50 to 190 feet measured from the north property line in order to 1) meet access spacing requirements for a Minor Collector, and 2) afford adequate Intersection Sight Distance in relationship to the aforementioned roadway vertical crest curve.
- D. 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 for the proposed north parcel, per Marion County Ordinances.
- E. PW Engineering utility related permitting is required in order to install utilities within the public right-of-way.
- F. Upon application for building permits for a new dwelling and any accessory buildings, it will be required at that time to complete a PW Engineering Erosion Prevention Acknowledgement Form since the property is located within the County's Stormwater Management Area.

Marion County Fire District #1 submitted comments regarding access for emergency vehicles to the property. The comments are enclosed with this decision.

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

7. 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.
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. Although the proposed partition is appropriate, the County requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. Any approval can be conditioned to meet this requirement.
10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**.

Joe Fennimore  
Planning Director

Date: April 7, 2020

If you have any questions regarding this decision contact Alyssa Schrems at (503) 566-4165.

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.