

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.20-009**

APPLICATION: Application of Re No Two, LLC, to divide a 19.94 acre parcel into three parcels containing 3.185 acres, 3.110 acres and 13.645 acres in an AR (Acreage Residential) zone located at 11214 Summit Loop SE, Turner. (T9S; R2W; Section 18B; tax lot 800).

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 **April 30, 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) and shall contain the notation that the survey is the result of Partition Case 20-009. 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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

Condition A – On the plat, dedicate sufficient public right-of-way half-width on Summit Loop Road to achieve 30 feet.

Condition B – Prior to plat approval, obtain an Access Permit, and under the Permit, pave a shared access driveway approach off Summit Loop Road at an approved location for the shared access easement connection point (to be specified in the Permit) that will also necessitate limited roadside ornamental vegetation removal in order to maximize available Intersection Sight Distance.

Condition C – On the partition plat, depict a shared access easement segment connecting to Summit Loop Road at a location to be specified by PW Engineering with the intention to maximize available Intersection Sight Distance.

Condition D – Prior to plat approval, notarize a Road Maintenance Agreement for concurrent recording with the plat, which will acknowledge joint upkeep of the shared access easement.

4. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System has named the proposed private access easement **HILLTOP LN SE**. The name must be shown on the final partition plat and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works **prior to the plat being recorded**.
5. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.

Prior to issuance of building permits on the resulting parcels,

6. The partition plat shall be recorded.
7. The applicant shall submit either evidence that the access easement has been improved to the standards in MCC 17.172. The access easement is also to provide for utilities.
8. 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.
9. 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.
10. 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:

11. A special dwelling setback of 100 feet shall be maintained from the west property line for any new dwellings.
12. 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.
13. 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 #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

15. 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).
16. The applicants should contact the Turner 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.

18. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, 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 **April 30, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 1, 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 approximately 650 feet north of the intersection of Sunset Hills Dr SE and Summit Loop Rd SE. The parcel contains a dwelling, septic system, two buildings and a lean to, all in the southwestern corner of the property. The parcel was subject to land use case CU79-46, and is therefore considered a legal parcel for land use purposes.
3. Surrounding properties consist of rural-residential home sites in AR zoned land to the north, east, south and northwest. One property to the west appears to be in farm use and is zoned EFU (Exclusive Farm Use) and contains a dwelling.
4. The applicant proposes, to divide a 19.94 acre parcel into three parcels containing 3.185 acres, 3.110 acres and 13.645 acres in an AR (Acreage Residential) zone located at 11214 Summit Loop SE, Turner.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Conditions:

Condition A – *On the plat, dedicate sufficient public right-of-way half-width on Summit Loop Road to achieve 30 feet.*

The above Condition is in accordance with Marion County Code (MCC) 17.172.240 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, pave a shared access driveway approach off Summit Loop Road at an approved location for the shared access easement connection point (to be specified in the Permit) that will also necessitate limited roadside ornamental vegetation removal in order to maximize available Intersection Sight Distance.*

Access work is typically an Engineering Requirement; however, it is being elevated to Condition status as a matter of timing for completion.

Condition C – *On the partition plat, depict a shared access easement segment connecting to Summit Loop Road at a location to be specified by PW Engineering with the intention to maximize available Intersection Sight Distance.*

The access easement intersection point with Summit Loop Road as depicted on MCSR #020478, as well as the existing driveway location, offers measurably less than the required Intersection Sight Distance due to road geometry at this location. PW Engineering is requiring the shared access connection point be adjusted to the south of the existing driveway location to improve available vision on / off the roadway as a matter of vehicle safety such that the shared access can be approved. The PW Engineering Inspector will meet the Applicant or their Agent in the field to confirm that optimum location.

Condition D – *Prior to plat approval; notarize a Road Maintenance Agreement for concurrent recording with the plat, which will acknowledge joint upkeep of the shared access easement.*

Nexus is to satisfy MCC 17.172.340.

ENGINEERING REQUIREMENTS

E. In accordance with Marion County Code 11.10, driveways shall meet spacing, design and safety standards. The following numbered sub-requirements pertain to access:

- 1) Access to Summit Loop Road for the proposed three parcels shall be shared; no direct access to Summit Loop will be allowed.
- 2) Direct access to Summit Loop Road for the existing parent dwelling shall be permanently closed.
- 3) Access Permits for each new dwelling will be required upon application for building permits.

F. 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, per Marion County Ordinances.

G. PW Engineering utility related permitting is required in order to install utilities within the Summit Loop Road public right-of-way.

H. Access and any necessary utility easements shall be shown on the plat.

ENGINEERING ADVISORY

I. A North / South-oriented mapped seasonal creek having upstream origins runs through the property. This drainage flow way should not be adversely impacted by development. It is anticipated that a drainage culvert may be necessary to traverse the drainage way to one or both of the proposed eastern parcels.

Turner Fire District commented that driveway access must comply with the July 2014 Marion County Fire Code Applications Guide. Turner Fire District is willing to work with the applicants on how best to comply. Please contact Turner Fire at your convenience.

Marion County Tax Assessor provided information regarding taxes on the subject property.

Marion County Surveyor's Office commented:

1. No survey required on parcels created over ten acres.
2. Parcels ten acres and less must be surveyed.
3. Per ORS 92.050, plat must be submitted for review.
4. Checking fee and recording fees required.
5. 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 Septic commented that new site evaluations will be required for Parcel 1 and 3, as lot 2 is greater than 10 acres nothing extra will be required for this lot per Marion County Policy.

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

6. 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 review indicates that there is a sustainable long-term supply of ground water for the proposed development. However, the County requires a Declaratory Statement be recorded with the property deed. This notifies the applicant and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. The County also requires submission of static water level measurements prior to recording the plat for all existing wells, and prior to building permits for all undeveloped parcels.

The applicant has submitted a hydrology study to Marion County Planning for peer review and the results of this peer review were positive. They satisfy the requirements in chapter 17.181 of the Marion County Rural Code pertaining to a Sensitive Groundwater Overlay. Additionally, prior to gaining final plat approval, static water level measurements shall be recorded and submitted to Marion County for the existing well.

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.*

The subject property only borders EFU land in farm use to the southwest and the 100 foot special setback will not affect the proposed home sites. The criterion in #8(a) is met. The filing of a declaratory statement for Farm/Forest use and an SGO overlay zone has been made conditions of approval. The criterion in #8(b) is met.

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

Joe Fennimore
Planning Director

Date: April 15, 2020

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.