

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.20-015**

APPLICATION: Application of Kevin Butler to divide a 62.50 acre parcel along the urban growth/zone boundary into two parcels containing 17.50 acres and 45 acres each in an EFU (Exclusive Farm Use) and UT-20 (Urban Transition- 20 Acre Density) zone located at 11641 Shaff Road SE, Aumsville (T9S; R1W; Section 4C; tax lot 1900).

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 4, 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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following condition has been satisfied:

Condition A – On the partition plat dedicate sufficient public right-of-way width on Shaff Road to meet the County and City minimum 30-foot half-width standards.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

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 two acres in size.
4. 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.

5. 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

September 4, 2020. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 5, 2020** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. A portion of the subject property is designated Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding EFU (Exclusive Farm Use) zone is to promote the continuation of commercial agricultural and forestry operations. A second portion of the property is designated Residential in the City of Stayton's Comprehensive Plan and correspondingly zoned UT-20 (Urban Transition 20 Acre Density).
2. The subject parcel is located approximately 650 feet west of the intersection of Shaff Rd SE and Golf Club Rd SE. The parcel contains a dwelling and three accessory structures.
3. Surrounding uses consist of vacant parcels or parcels in farm use. All parcels are EFU to the north, south and west, while parcels to the east are zoned UT-20.
4. The applicant proposes to divide a 62.50 acre parcel along the urban growth/zone boundary into two parcels containing 17.50 acres and 45 acres each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Condition A – On the partition plat dedicate sufficient public right-of-way width on Shaff Road to meet the County and City minimum 30-foot half-width standards.

Marion County's Assessor's Office provided comments related to the subject properties taxes.

Marion County Septic Inspection commented that no evaluation is required now – but will be when buildings are proposed.

Marion County Surveyor's Office commented:

1. Per ORS 92.055 - Parcels created over ten 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.

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-5 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.
7. The portion of the property that in within a SGO zone is not being reduced in size and is already over the 5 acre minimum. The proposal satisfies the criteria in MCC 17.181.
8. The criteria for reviewing division of lands within an EFU zone are listed in Chapter 17.136.090(A) of the Marion County Code (MCC).

A. Minimum Parcel Size for Newly Created Parcels.

1. Farm Parcels. The minimal parcel size for new farm parcels shall be calculated as follows:

- a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.*
- b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.*
- c. The acreage size calculated in subsection (A)(1)(b) of this section, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.*

9. The applicant is not proposing the creation of a new farm parcel, rather, they are splitting off the section of the parcel that is zoned for farming from the portion zoned Urban Transition and within the UGB of Stayton. The criterion does not apply.
10. The criteria for reviewing division of lands within a UT-20 zone are listed in Chapter 16.13.310(B) of the Marion County Code (MCC).

B. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:

- 1. Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*
- 2. The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*
- 3. When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible, the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*

4. When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre, a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan.

The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.

5. New lots shall have no dimension less than 80 feet.

6. When a lot located in a residential plan designation and occupied by a nonresidential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.

7. The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone (i.e., one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added, five acres.

11. The parcel zoned UT-20 will not be less than 10 acres, the criterion in #10 (B) (1), is met. The location of lot lines will make the parcel more suitable for future development and locations of streets, the criterion in #10 (B) (2), is met. No lot occupied by a residence is being reduced or created to accommodate a new residence. The UT-20 lot is large enough to be developed into planned urban uses once annexed into the City of Stayton, the criterion in #10 (B) (3), is met. No lots are proposed that are smaller than 5 acres, the criterion in #10 (B) (4) does not apply. No lot being proposed has a dimension less than 80 feet, the criterion in #10 (B) (5) is met. The lot zoned UT-20 with an underlying residential designation is currently a field with no improvements, the criterion in #10 (B) (6) is met. Because the UT-20 zoned portion of the property is not being reduced, and it is along the City of Turner's UGB, the criterion in #10 (B) (7) does not apply.
12. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED.**

Joe Fennimore
Planning Director

Date: August 20, 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.