

**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. 14-009**

**APPLICATION:** Application of Tom and Mary Lovell to divide a 6.28 acre parcel into two parcels containing 2.08 acres and 4.20 acres each in an AR (Acreage Residential) zone located at 11100 Summit Loop SE, Turner. (T9S; R3W; Section 13; tax lot 100).

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

**EXPIRATION DATE:** This approval is valid only when the final partition plat is recorded by **June 19, 2016**. 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). **This shall be accomplished prior to issuance of any building permit(s) on the resulting parcels.**
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 applicant shall submit a static water level measurement of all existing wells.
4. The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.
5. 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** – *Prior to Tentative Plat approval, obtain an Access Permit from MCPW Engineering to permanently close unpermitted accesses to the subject property that are unsafe due to vision limited by roadway geometry and remove wooden railroad tie fence posts from within 10 feet of the Summit Loop roadway edge of pavement.*

**Condition B** – *Prior to Tentative Plat approval, obtain a Work-in-R/W Permit from MCPW Engineering to widen*

*the subject property roadside gravel shoulder to a minimum of 3 feet commencing at a point located approximately 50 feet south of the northwest property corner and extending southward to the apex of the first vertical crest curve, a total distance of up to 225 feet.*

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

6. The applicants shall provide a static water level measurement for any new or existing wells intended as the water supply for the new lots (form enclosed).
7. The applicants shall sign and submit a Declaratory/Farm-Forest 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.
8. The applicant shall sign and submit an SGO Declaratory Statement (enclosed) to the Planning Division for each resulting parcel. The applicant shall record this statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
9. Any new dwelling placed on the new parcel shall be located at least 100 feet from the west and south right-of-way line of Summit Loop Road.

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

10. 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, however, the smaller lots shall be a maximum two acres in size.
11. 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:

12. 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).
13. 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.

**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 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 4:00 p.m. on **June 19,**

**2014.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 20, 2014** unless further consideration is requested.

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

1. The subject properties are designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The primary intent of the designation is to provide for rural residential development at a density sustainable with rural services.
2. The property is located on the east side of Summit Loop SE, approximately 1000 feet north from the intersection with Sunset Hills Drive SE. The parcel contains an existing dwelling, accessory structures, well and septic system. The property was created by Partition case #85-17 and is considered a legal lot for land use purposes.
3. Properties to the north and east are zoned AR and consist of rural residential uses. Property to the south and west is zoned SA (Special Agriculture) and in farm use.
4. The applicant proposes to divide a divide a 6.28 acre parcel into two parcels of 4.20 acres and 2.08 acres each.
5. Public Works Land Development Engineering and Permits requested that Conditions A and B be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file. LDEP will not approve the final plat for recordation until the following conditions have been met:

*Condition A – Prior to Tentative Plat approval, obtain an Access Permit from MCPW Engineering to permanently close unpermitted accesses to the subject property that are unsafe due to vision limited by roadway geometry and remove wooden railroad tie fence posts from within 10 feet of the Summit Loop roadway edge of pavement.*

This *Condition* is essentially one of timing in order to meet corrective measures prior to plat approval. Closure in this case, with all things considered, can be accomplished with fencing. Of primary concern is a gravel access that has been installed in the near vicinity of the NW property corner. There are one or two more accessible points along the subject property frontage where vehicle-size gaps in fencing, without gates, have been left in the recently installed livestock fencing. Four or so wooden posts have been placed along the subject property frontage, with two or more situated 7 to 8 feet measured from the edge of the roadway pavement within what is known as the 10-foot “clear zone”. Certain fixed objects located within the “clear zone” are considered a potential vehicle crash hazard. Any vehicle gates shall be located a minimum of 20 feet from the roadway edge-of-pavement. Any future replacement fencing shall be located a minimum of 20 feet measured from roadway edge of pavement.

*Condition B – Prior to Tentative Plat approval, obtain a Work-in-R/W Permit from MCPW Engineering to widen the subject property roadside gravel shoulder to a minimum of 3 feet commencing at a point located approximately 50 feet south of the northwest property corner and extending southward to the apex of the first vertical crest curve, a total distance of up to 225 feet.*

Nexus is the anticipated added traffic to the road and the need for this safety improvement. The added shoulder shall be comprised of properly compacted ¾ to 1-0” minus crushed rock to a depth of 8 inches.

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee, second mylar fee, and recording fee required. A current or updated title report must be submitted at the time of review. Title reports shall be no less 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 Tax Assessor provided information regarding the taxes on the subject property.

6. Chapter 17.181 of the Marion County Code (MCC) establishes criteria for partitioning property in a Sensitive Groundwater Overlay zone (SGO). In order to meet criteria in Chapter 17.181 MCC, the applicant submitted a "Hydrogeology Report" which indicates there is a sustainable long-term supply of ground water for the proposed development. Peer review of the Hydrogeology Report was positive.

The County requires a Declaratory Statement be recorded with the property deed to notify the applicants and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. In addition, the applicant must meet the water level monitoring requirements in MCC 17.181.120. This includes a static water level measurement of all existing wells prior to recording the plat, and at least one static water level measurement prior to the issuance of a building permit in any new or existing wells intended as the water supply for the lot. This requirement is only for lots created by partitions recorded after January 1, 1998. This will be made a condition of approval

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. In addition, the resulting undeveloped parcel is of sufficient size and shape to meet the development standards in the AR zone.
8. Staff recognizes the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 2.0 acres prior to any required right-of-way dedication.
9. MCC 17.128.050 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 developable portion of the resulting undeveloped parcel abuts a resource zone to the south and west. The requirements in #9 can be made a condition of any approval.

10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED** subject to conditions.

Warren Jackson  
Director-Planning Division

Date: June 4, 2014

If you have any questions please contact Patty Dorr at (503) 588-5038