

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
CONDITIONAL USE CASE NO. 24-001**

APPLICATION: Application of State of Oregon Parks and Recreation for a conditional use permit to expand Silver Creek Falls State Park by adding a visitor center and a new camping loop with associated site improvements on a tract of 198.26 acres located at 21125 Hult Rd SE, Silverton (T8S; R1E; Section 12; Tax Lots 100, 101, 102, 1000).

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

EXPIRATION DATE: This conditional use permit is valid only when exercised by **February 24, 2026**. 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support the proposal. 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:

1. The applicant shall obtain all required permits from the Marion County Building Inspection Division.
2. The applicant shall sign and submit a Farm/Forest Declaratory Statement (form 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.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

Condition A –Complete the following:

- *Dedicate 60-foot wide public R/W segment of Hult Road;*
- *Dedicate additional Hult Road contiguous public R/W for fire turnout and turnaround acceptable to Drakes Crossing FD;*
- *Prior to issuance of building permits acquire PW Engineering concurrence of preliminary dimensioned site plans for the visitor center parking lot and campground;*
- *Acquire MCPW Engineering Permit for construction of Hult Road fire turnout and turnaround;*
- *Acquire ODOT Approach Permit to permanently close pre-existing Hult Road northern segment SR 214 connection and provide evidence of ODOT inspection acceptance; and,*
- *Apply to MC Survey Dept for Vacation of mutually agreed upon pre-existing Hult Road public R/W.*

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

4. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.

5. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

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 thereon. It is recommended that agencies mentioned in Finding # below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the Drakes Crossing 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.
7. All or a portion of this property has been identified as wetland on the statewide wetland's inventory. If the site is a jurisdictional wetland, this proposal may require a permit from the Division of State Lands and/or the Army Corps of Engineers. You must obtain any necessary state or federal permits before beginning your project. Marion County is not liable for any delays in the processing of a state or federal permit.
8. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

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 in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **February 26, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 27, 2024**, unless further consideration is requested.

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

1. The subject property is designated Farm/Timber in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding Farm/Timber zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located directly west of the intersection of Hult Rd SE and HWY 214, on the northern and southern sides of Hult Rd SE. Tax lot 100 contains a dwelling built in 1936 and a farm structure. Tax lot 102 is vacant and contains timber. Tax lot 101 contains an existing structure to be renovated into the visitors center. Tax lot 1000 is vacant and contains some timber, a stream and open field area. Tax lot 1000 was the subject of land use case AR02-046 while tax lots 100, 101 and 102 were created in their current configuration by P91-044 and are all therefore considered legal for land use purposes.
3. Surrounding uses are farm or timber uses in all directions. This area is comprised of timber stands, Christmas tree farms and other agricultural uses as the land transitions to forest from farm/forest.
4. Soil Survey of Marion County Oregon indicates 42% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to expand Silver Creek Falls State Park by adding a visitors center and a new camping loop (65 campsites) with associated site improvements.

6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITIONS

Condition A –Complete the following:

- *Dedicate 60-foot wide public R/W segment of Hult Road;*
- *Dedicate additional Hult Road contiguous public R/W for fire turnout and turnaround acceptable to Drakes Crossing FD;*
- *Prior to issuance of building permits acquire PW Engineering concurrence of preliminary dimensioned site plans for the visitor center parking lot and campground;*
- *Acquire MCPW Engineering Permit for construction of Hult Road fire turnout and turnaround;*
- *Acquire ODOT Approach Permit to permanently close pre-existing Hult Road northern segment SR 214 connection and provide evidence of ODOT inspection acceptance; and,*
- *Apply to MC Survey Dept for Vacation of mutually agreed upon pre-existing Hult Road public R/W.*

ENGINEERING REQUIREMENTS

- B. Stormwater detention may be required for 0.5 acres or more of concentrated development for such things as buildings and adjacent parking lots.
- C. Transportation System Development Charges will be evaluated and assessed upon application for building permits for the visitor center and for establishment of the campground.
- D. Maintain local access at all times during construction.
- E. In conjunction with MCPW Engineering and Road Operations, evaluate the need for installation of a Hult Road drainage cross-culvert in the vicinity of a mapped seasonal crossing where it intersects next to the east property line, situated at approximately a distance of 1000 feet from SR 214 as measured along Road.

ENGINEERING ADVISORIES

- F. DEQ regulates ground disturbing activities of 1+ acres for construction stormwater erosion.
- G. An ODOT Approach Permit will be required for the new Parks driveway connection to SR 214.
- H. Utility work within the Hult Road R/W requires permits from MCPW Engineering, while similar work within SR 214 R/W falls under ODOT jurisdiction.
- I. Coordinate with Drakes Crossing FD with regard to campground loop geometry for EVA prior to county preliminary site plan submission.

Oregon Department of Transportation (ODOT) commented:

“Thank you for notifying ODOT of the proposed changes at Silver Falls State Park. OPRD has been in contact with ODOT concerning the proposed changes:

- Constructing a new highway approach at MP 27.92 on the northeast side of the highway opposite an existing highway approach on the southwest side of the highway.
- Removing the existing Hult Road connection at MP 27.99.
- Adding appropriate signage and striping along the highway in the vicinity of the improvements.

OPRD will need to obtain a permit from ODOT for the work in the highway right-of-way, which will include a review of the construction plans. Other than that, ODOT has no concerns with the proposal.”

Marion County Building Department commented:

“Permits are required for development/installation of utilities.”

Marion County Septic Department commented:

“A septic system will be required, please contact the DEQ western regional office for permitting as the project will require a WPCF permit through State of Oregon DEQ.”

All other commenting agencies stated no objection to the proposal.

7. In order to approve an expansion of a public park, the applicant must demonstrate compliance with the specific criteria listed in MCC 17.139.060 (M):

M. The following criteria apply to those uses identified in MCC 17.139.050:

- 1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.*

The property is not located within 3 miles of an Urban Growth Boundary. The criterion does not apply.

- 2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection “tract” means a tract as defined in MCC 17.139.130(F) in existence on May 5, 2010.*

Based on the applicants site plan, the proposal will meet this provision. The criterion is met.

- 3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits of this subsection.*

The property is not located within 3 miles of an Urban Growth Boundary. The criterion does not apply.

8. In addition to the specific criteria above, the use must also adhere to MCC 17.139.050 (H) (5):

Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).

The use is that of a public park and complies with OAR 660-034-0035.

MCC Chapter 17.139.070(B) requires a Declaratory Statement:

The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

Recording a Farm/Forest Declaratory Statement shall be made a condition of approval.

9. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in MCC 17.139.060(A). Those requirements are:
- (a) *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*
 - (b) *The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*
 - (c) *Adequate fire protection and other rural services are or will be available when the use is established.*
 - (d) *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*
 - (e) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
 - (f) *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

The August 2009 Master Plan for Silver Falls State Park proposes to expand the park on the south side of Silver Falls Dr SE to include the subject property by remodeling and converting the existing unfinished residence to a visitor center, as well as developing the park property around the visitor center and parking area. This will, in the future, include restrooms, information and orientation center, snack shop, conference room, administrative offices and storage, facility specific septic system, generator, firefighting water storage tank and hydrant. Drakes Fire District provides fire protection and Marion County provides law enforcement to the property. Other rural services, such as a septic system and well, are available to the property. There is no evidence to indicate that the use will have a negative impact on nearby lands devoted to farm use. The property is not within a wildlife habitat area or geologically hazardous area. There is no evidence of significant odors or noxious matter emitted from the premises that would affect air or water quality. The noise generated by the proposed activity should be comparable to agricultural activities. The proposal meets 7(a), (b),(c),(d), (e) and (f).

10. Based on the above findings it has been determined that the applicant's request meets all applicable criteria for a and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: February 9, 2024

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.