

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
ADMINISTRATIVE REVIEW CASE NO.21-032**

APPLICATION: Application of Don Calcote on behalf of Wredco 1, LLC for an administrative review to place a template test dwelling on a 7.6-acre parcel in a TC (Timber Conservation) zone located in the 21000 block of Hazelnut Ridge Road NE, Scotts Mills (T6S; R1E; Section 25; Tax lot 900).

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

EXPIRATION DATE: This decision is valid only when exercised by **December 23, 2025** (four years) unless an extension is granted. The effective period may be extended for two years subject to approval of an extension (form available from the Planning Division). Request for an extension must be submitted to the Planning Division prior to expiration of the approval.

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To ensure 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 applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permits, the applicants 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.
3. The proposed dwelling shall be located substantially as indicated on the site plan submitted with the application. Minor variations may be allowed upon review and approval by the Planning Director.
4. The dwelling must be located within 200 feet of the dwelling located across the road at 20990 Hazelnut Ridge Road NE, due to the Major Big Game Habitat.
5. The owners shall maintain a fire hazard reduction plan as recommended by the Oregon Department of Forestry.
6. The proposed dwelling shall meet the fire protection and hazard reductions as listed in MCC 17.138.060.
7. The dwelling shall maintain a special 200 foot setback from all property lines when those properties are in farm or forest production. Accessory structures shall maintain a special 100 foot setback from surrounding properties in farm or timber production.
8. The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry. The dwelling shall have a fire retardant roof. The dwelling shall not be sited on a slope of greater than 40 percent. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

9. Proof of a domestic water supply meeting the requirements listed in MCC 17.138.600(c) 1, 2, or 3 shall be provided.
10. The property address will be 21001 Hazelnut Ridge Road NE, Scotts Mills, OR 97375.

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 any restrictions or conditions. It is recommended that the agencies mentioned in finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

11. The applicant should contact the Silverton 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.
12. 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.
13. The property appears to have been in a tract with 061E250000901, 061E250000902, 061E360000200, 062E310000400, 061E360000300, 062E310000300, 061E360000400, 062E310000100, 062E310000200, 062E310000500, 062E310000600, 062E310000700, and 062E310000800 as of January 1, 2019. If this approval expires, the property may not be eligible for a home site approval per the requirements in Oregon House Bill 2225, which take effect on November 1, 2021.

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 to with adopted land use policies and regulations the Director must deny the application. Anyone who disagrees with the Director's decision may appeal the decision to a Marion County Hearings Officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals 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 **December 23, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 24, 2021** unless appealed.

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

1. The subject property is designated Forest Lands in the Marion County Comprehensive Plan and zoned TC (Timber Conservation). The purpose of the TC zone is to conserve forest lands by maintaining the forest land base and to protect the forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use of forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.
2. The subject property is located on the northeast side of Hazelnut Ridge Road NE, approximately 1.44 miles southeast of the intersection of Hazelnut Ridge Road NE and Crooked Finger Road NE. The property was previously the subject of Property Line Adjustment (PLA) 16-024, which determined that the property was legal for the purposes of land use.
3. Properties in all directions are zoned TC and consist of parcels in timber production, with properties of the west side of Hazelnut Ridge Road NE sporadically developed with homesites.

4. The following table depicts the soil composition on the property and its capacity to produce wood fiber.

Soil Name	Total Acres	CU.FT/AC/YR	Total CU.FT./YR
Hullt clay loam, 2-7% slopes (HuB)	0.2	118	23.6
Hullt clay loam, 20-30% slopes (HTE)	3.5	118	413
Hullt clay loam, 30-60% slopes (HTF)	0.1	118	11.8
Hullt clay loam 7-20% slopes (HuD)	0.5	118	59
McCully clay loam, 2-7% slopes (McB)	3.3	118	389.4
Total	7.60		896.8

5. The applicant is proposing to place a template dwelling on the property subject to the standards in Marion County Code 17.138.030(B).

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

ENGINEERING REQUIREMENTS

- a) *At the time of application for building permits an Access Permit will be required. Typically, limited roadside vegetation clearing in support of adequate vision may be required along the property frontage adjacent to the proposed access.*
- b) *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.*
- c) *Utility work in the public right-of-way requires separate PW Engineering permits.*

Marion County Building Inspection commented that there were no Building Inspection issues based upon the documents submitted during application. Permits are required for proposed future development and/or utilities on private property.

Silverton Fire District commented that the dwelling will need to meet the Oregon Fire Code as it relates to access and water supply. If the conditions cannot be met, the building official, in accordance with OAR 918-480-0125, will need to apply Uniform Alternative Construction Standards (UACS) to the new dwelling.

Marion County Addressing commented that the dwelling will be assigned an address of 21001 Hazelnut Ridge Road NE, Scotts Mills, OR 97375.

Marion County Septic commented that a site evaluation and construction permit is required for development of a dwelling.

Various additional agencies were contacted about the proposal and given an opportunity to comment. These agencies either failed to comment or stated no objection to the proposal.

7. According to Chapter 17.138.030(B) of the Marion County Code (MCC) a single family dwelling subject to the special use and siting requirements in MCC 17.138.060 may be allowed provided:

- (a) *The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.*

The parcel is owned by WREDCO I, LLC based on a deed recorded as Reel 4553, page 447 on October 20, 2021 and is not owned in a tract with any other parcels. The property was previously owned by

Weyerhaeuser Company, in a tract with 14 other parcels as of January 1, 2019, listed in Condition 13 and a map in the file. Based on these facts, this criterion is met.

- (b) *No dwellings are allowed on other lots or parcels that make up the tract, and the other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.*

As discussed, there are no other dwellings in the tract. The criterion is met.

- (c) *The lot or parcel is:*

- (3)(c) *Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; and*
- (e) *If the tract abuts a road that existed on January 1, 1993 and subsection (D) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.*
- (f) *Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.*

Soil analysis (see finding #4) found that the parcel is predominantly composed of soils that can produce up to 118 cubic feet per acre of wood fiber and therefore qualifies under 7(c)(3)(e) above. A 160-acre square was used to run the template test in accordance with the requirements above. Using this test, the applicant found that the square contained 11 other parcels, and at least 3 (total of 6) of those parcel were developed with a dwelling that was established before January 1, 1993, and continue to exist as required by ORS 215.750. None of these parcels are located within an urban growth boundary. The criteria are satisfied.

- (d) *The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.*

There is no evidence indicating that there will be a significant negative impact on water resources. There are no aggregate sites located in the areas surrounding the property. Development of a home site on the property should not create significant stormwater issues. A dwelling is a residential use and is not likely to create excessive noise in the area. The property is entirely within the Major Big Game Overlay. The property does not contain any structures that are designated as historic in the County's Comprehensive Plan. The criteria are satisfied.

- (e) *The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.*

The proposed dwelling is located within the Major Big Game Habitat Overlay. A 640 acre square centered on the subject property found that there were 11 dwellings within the template. Marion County Fish and Wildlife Habitat Policy 5 states "Development density shall be controlled so that significant wildlife habitat will not be adversely affected in the County's resource zones. The standards for dwelling density in big game habitat, as identified on the habitat maps, shall be: one dwelling unit/80 acres in major habitat; one dwelling unit/40 acres in peripheral habitat. If dwellings are clustered within 200 feet of each other, these densities may be doubled". To address the density in the Major Big Game Habitat, the applicant proposes to locate the dwelling within 200 feet of the dwelling across Hazelnut Ridge Road NE at 20990 Hazelnut Ridge Road NE. The applicant has submitted a site plan showing that the homesite is proposed to be approximately 155 feet from the home located at 20990 Hazelnut Ridge Road NE. As a

condition of approval, the homesite must be located within 200 feet of the dwelling located at 20990 Hazelnut Ridge Road NE. Based on these facts as well as conditions of approval, this criterion is met.

8. The special standards in MCC 17.139.070 include:

(a) *Special Siting Requirements:*

(1) *Dwellings and structures shall comply with the special requirements in subsection (a)(2) or (3) of this section. Compliance with the provisions in subsection (a)(2) of this section and subsections (b), (f) and (g) satisfies the criteria in (a)(3) of this section. Alternative sites that meet the criteria in subsection (3) of this section and may be approved as provided in MCC 17.110.680.*

(2) *Siting Standards for Dwellings and Other Buildings.*

A. *Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.*

B. *The special setback in subsection (a)(2)(A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (a)(2)(A) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.*

C. *The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.*

(3) *Review Criteria for Alternative Sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (A)(2) of this section may be approved if the proposed site will meet the following criteria:*

A. *The site will have the least impact on nearby or adjoining forest or agricultural lands;*

B. *The site ensures that adverse impacts on forest operations and accepted farming practices will be minimized.*

C. *The amount of agricultural and forest lands used to site access roads, service corridors, the dwelling and structures is minimized.*

D. *The risks associated with wildfire are minimized.*

The applicant submitted a site plan that shows a proposed dwelling that is 200 from all property lines except the north property line which is shown at 150 and the west property line which is shown at 65 feet. The applicant states that the site was selected as it is served by an existing forest road and that the majority of the parcel will be preserved for forest use by limiting new road construction. The site was also chosen to be within 200 feet from the neighbor to the southwest. Based on these facts, criterion 8(a)(3)(A) is met.

The applicant states that the proposed site will have minimal adverse impacts on forest operations and farming practices as adequate firebreaks will be maintained, minimal new road construction is proposed, and minimal site improvement and excavation is proposed. Based on these facts, criterion 8(a)(3)(B) is met.

The applicant states that the existing forestry roads will be utilized to provide access to the dwelling. The applicant states that a short approach driveway is proposed to a level area near the public road which will not intrude further into the forest area of the parcel. The service corridors are expected to be minimally intrusive due to the short distance from the public road and better access to utilities. Based on these facts, criterion 8(a)(3)(C) is met.

The applicant states that the Silverton Rural Fire Protection District will have easy access to the proposed home site which is located near a public road. There will be adequate turnouts/turnarounds if required. All firebreaks based on slopes around the proposed home site will be met and the risks associated with wildfires will be minimized. The Silverton Rural Fire District was notified of the proposal and submitted comments regarding fire access and water supply standards that must be met for development. Based on these facts, criterion 8(a)(3)(D) is met.

- (b) *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 grantees, 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 I/We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices I/We 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.”

This will be made a condition of approval.

- (c) *Domestic Water Supply.*

- (1) *The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).*
- (2) *Evidence of a domestic water supply means verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.*
- (3) *If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report upon completion of the well.*

The applicant states that water will be provided by a proposed well and that a well constructor's report will be submitted upon completion of the well. Demonstrating compliance with the criteria in c(1), (2), and (3) prior to the issuance of any building permit for a dwelling will be made a condition of approval. There is no reason to believe that the criterion cannot be satisfied.

- (d) *Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

The property is proposed to be accessed from Hazelnut Ridge Road NE. An access permit shall be required. The criterion is met.

(e) *Tree Planting Requirements for Lots or Parcels over 10 Acres:*

- (1) *Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.*
- (2) *At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.*

The parcel is approximately 7.60 acres in size. Based on this fact, tree planting is not required. Based on these facts, the criterion does not apply.

(f) *Fire Protection.*

- (1) *The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.*
- (2) *If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved, pursuant to the procedures set forth in MCC 17.110.680, subject to the requirements of subsection (F)(3) of this section.*
- (3) *Alternative means of fire protection may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The following requirements apply:*
 - A. *If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.*
 - B. *Road access to the water supply required in subsection (F)(3)(A) of this section shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.*

Fire protection is provided by the Silverton Fire Department. The applicant shall meet the District's access standards. Other provisions listed above should not apply unless required by the Fire District. The criterion is met.

(g) *Fire Hazard Reduction.*

- (1) *The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.*
- (2) *The dwelling shall have a fire retardant roof.*
- (3) *The dwelling shall not be sited on a slope of greater than 40 percent.*
- (4) *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

The applicant states that a 30 foot primary fuel break and a 130 foot/180 foot secondary firebreak will be maintained based on slopes within 30 feet of the homesites, from provisions in the Recommended Fire Siting Standards for Dwellings. The applicant submitted a proposed site plan that demonstrates slope

calculations for firebreaks. Compliance with this standard will be made a condition of approval. Based on these facts, criterion 8(g)(1) is met. The applicant states that the dwelling will have a fire retardant roof. This will be made a condition of approval. Based on these facts, criterion 8(g)(2) is met. The applicant states that there are no slopes greater than 40 percent near the proposed dwelling site. This will be made a condition of approval. Based on these facts, criterion 8(g)(3) is met. The applicant states that the dwelling will have a spark arrester if the dwelling has a chimney. This will be made a condition of approval. Based on these facts, criterion 8(g)(4) is met.

(h) *Road and Drainage Standards.*

- (1) *Public road access to structures of more than 200 square feet in area or a dwelling shall comply with Section 4 of the Marion County Department of Public Works Engineering Standards adopted by the board of county commissioners April 11, 1990.*
- (2) *Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district, except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the fire district or, if the site is not in a fire district, by the State Department of Forestry.*
- (3) *Drainage standards for private roadways shall be those in Section 5 of the Public Works Engineering standards except that corrugated metal culverts of equivalent size and strength may be used.*

The property owner will be required to obtain a driveway access permit from Marion County Land Development and Engineering, which will ensure compliance with the above standards. The criterion is met.

9. Based on the above findings, it has been determined that subject to conditions the proposed dwelling request will comply with the standards for placement of a forest template dwelling in the Timber Conservation (TC) zone and is **APPROVED**, subject to conditions

Brandon Reich
Planning Director

Date: December 8, 2021

If you have any questions regarding this decision contact Alyssa Schrems 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.