

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 / PARTITION CASE NO. 26-015

APPLICATION: Application of Ellen and Greg Wilt for a conditional use permit to establish a 58.92-acre conservation parcel by partitioning a 67.96-acre parcel to create a 58.92-acre parcel and an 11.08-acre parcel in an EFU (Exclusive Farm Use) zone located at 7908 Boedigheimer Rd SE, Sublimity (T8S; R1W; Section 26, Tax lot 1200.)

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 **June 17th, 2028**. 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 proposal 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. Per ORS 92.055, parcels over 10 acres can be unsurveyed. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fees required. 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.
2. Prior to plat approval, an existing septic system evaluation for the proposed southern parcel is required.
3. Prior to plat approval, the applicant shall submit documentation to Marion County Planning confirming that the 58.92-acre conservation parcel shall be transferred to United States Fish and Wildlife Service.
4. The applicant shall sign and submit a Farm/Forest Declaratory 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.
5. 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.
6. The conservation parcel shall not be eligible for siting a dwelling and may not be considered in either approving or denying an application for siting any other dwelling.
7. The conservation parcel may not be considered in approving a redesignation or rezoning of forest lands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

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

8. 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 any restrictions or conditions. It is recommended that agencies mentioned in Finding # 7 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

9. 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).
10. The applicants should contact the Sublimity 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 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 **June 17th, 2026**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 18th, 2026**, 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 Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations. The EFU zone is also intended to allow other uses that are compatible with agricultural activities such as scenic resources and fish and wildlife habitat.
2. The subject parcel contains a dwelling built in 1930 and several accessory structures. The homesite is located south of a private access road that enters the parcel directly across Boedigheimer Road SE from Triumph Rd SE. The driveway to the homesite is approximately 250-feet down the private road from where it intersects with Boedigheimer. South and east of the homesite is an area of approximately 3-acres devoted to row crops. The entire area south of the private road is approximately 11.08-acres, and this area is proposed to be retained for a homesite and hobby farm while the remaining 58.92-acres north of the private road becomes a wildlife and habitat conservation parcel. The area proposed for a conservation parcel contains a wooded area around an intermittent stream which is a tributary of Beaver Creek. The intermittent stream both feeds and is fed by a half-acre pond on the property. Outside this wooded area are open fields which have previously been farmed for grass seed. There are a few small, shed structures in this area. A Bonneville Power Administration (BPA) easement and powerlines cross the northwestern corner quarter of this parcel. That easement will be entirely within the proposed conservation parcel. The subject parcel was created in its current configuration as a result of approval of a 2003 Property Line Adjustment (PLA03-008) and is therefore considered legal for land use purposes.
3. The surrounding parcels are all zoned EFU and in varied uses. There are several parcels in use for rural residential purposes in the immediate area, and several parcels in commercial agricultural use. The primary crops being produced by adjacent farm parcels are grass seed and hazelnuts. A few parcels in the area contain pasturelands. The parcel to the southeast has a conditional use permit to operate a tractor repair business. Southwest of the subject parcel, approximately a half-mile away, is the urban growth boundary for the City of Sublimity.
4.

Soil	% of Parcel	SCS Soil Class	High Value?
McAlpin	12.6	2	Yes
Nekia	6.2	3 / 4	Yes / No
Salkum	61.7	2	Yes
Stayton	19.5	6	No
5. The applicant proposes to establish a 58.92-acre conservation parcel by partitioning a 67.96-acre parcel to create a 58.92-acre parcel and an 11.08-acre parcel in the EFU zone.

7. Marion County Planning issued a request-for-comment to other departments and agencies.

Marion County Surveyor's Office commented:

-Per ORS 92.055 – Parcels over 10 acres can be unsurveyed.
-Per ORS 92.050, plat must be submitted for review.
-Checking fee and recording fees required.
-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 Department requested that the following be included in the land use decision.

“Condition of Approval: An existing system evaluation is required for the proposed southern parcel.

Note: Marion County has no history on the location of the existing septic system.”

Oregon Department of Fish and Wildlife commented: “ODFW is in support of this application and the establishment of a 58.92-acre conservation parcel. The property has oak and prairie habitat on it that will be set aside for wildlife and protected in the long term. Both oak and prairie habitat have been declining in the Willamette Valley and these habitats support numerous species.”

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

8. The applicant proposes establishing a Wildlife and Habitat Conservation area which is a conditional use in the EFU zone under MCC 17.136.050(H)(3) designated as “open space” and subject to the criteria in MCC 17.136.060(A). The following criteria apply to all conditional uses in the EFU zone:

1. 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.

For purposes of this section, a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

a. Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;

The applicant identified the surrounding farm uses which include production of hazelnuts and grass seed as well as pasture lands for livestock. Hazelnuts are harvested in September and October and orchard maintenance is a year-round activity. Grass seed is primarily harvested in June and July but varies based on species.

b. An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and

The applicant explained that the proposed conservation parcel would promote habitat for birds such as western meadowlark and western bluebirds which are largely insectivores. The conservation parcel is not proposed to be open to the public, and traffic generated by the parcel will only be that of Fish and Wildlife personnel visiting and working on site. Therefore, the two potential impacts to farms, crop predation from an increase in native birds and traffic from new visits to the site, are both negligible.

c. An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.

Staff did not identify any significant impacts on surrounding farm or forest operations that could result from establishment of the proposed conservation parcel. The two identified potential impacts, crop predation from an increase in native birds and traffic US Fish and Wildlife Service staff visits to the site, are not significant impacts either individually or in combination.

d. For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.

These potential impacts were all considered and the only two possible impacts were traffic as a result of Fish and Wildlife personnel visiting the conservation parcel, and reduction of crop yields as a result of more birds in the area. The applicant explains that the habitat restoration activities planned for the proposed conservation parcel include converting more land to Oak savanna and encouraging native plant species such as Roemers fescue, golden paintbrush and the Willamette daisy. These plant species do not attract pest species of birds as Canadian geese that may prey upon grass seed.

e. For purposes of this section, potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under this section.

No construction is proposed for establishment of the conservation parcel. The parcel will not be open to the public, so no parking area or structures will be required. Any access by US Fish and Wildlife staff will be in the same manner and similar frequency that a farmer would access their fields. Any future proposed storage structures for tools would be consistent with acceptable farm practices such as agricultural exemption structures.

f. In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in this section.

The county understands this standard and does not propose any such conditions.

The applicant provided information consistent with the requirements for addressing the farm impacts test. Staff assessed the required information and did not identify any way that the proposed conservation parcel could force a significant change in accepted farm or forest practices in the area. Staff found that the potential for increased traffic to the area as the result of establishment of the conservation parcel would be limited to only US Fish and Wildlife staff and therefore consistent with the type of traffic resulting from active farm use of the parcel. Staff found that the potential for the conservation parcel to attract pest species of bird was negligible, and that the applicants actively plan to promote habitat for other species of birds that have potential to be beneficial to farm uses in the area because of the insectivorous diet of these other bird species. Therefore, staff found that the proposal would not force a significant increase in the cost of accepted farm or forest practices in the area. The farm impacts test criterion is met.

2. Adequate fire protection and other rural services are, or will be, available when the use is established.

The properties are both served by Sublimity Fire District and the Marion County Sheriff's Office. The criterion is met.

3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.

The use is likely to have a beneficial impact on all of these factors. No aspect of the conservation parcel proposal would have an adverse impact on any of these factors. The criterion is met.

4. Any noise associated with the use will not have a significant adverse impact on nearby land uses.

An increase in the bird population on the conservation parcel may result in more noise in the immediate area from bird calls. The volume of these bird calls is not anticipated to negatively impact nearby land uses. The criterion is met.

5. 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.

There are no nearby water impoundments or aggregate sites. The criterion does not apply.

9. A wildlife and habitat conservation area is a conditional use in the EFU zone under MCC 17.136.050(H)(3) as an open space and is subject to the criteria in MCC 17.136.060(I):

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 applicant proposes no new enclosed structures. The criterion is met.

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 17.136.140(F) in existence on May 5, 2010.

The applicant proposes no new enclosed structures. 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 existing structures on the area of the proposed conservation parcel are sheds and the applicant does not propose expansion of these structures. The urban growth boundary of Sublimity is less than a half-mile away and the applicants understand these restrictions. The criterion is met.

10. The following regulations in MCC 17.136.090(2) apply when partition of land in the EFU zone, and creation of a non-farm parcel, is proposed.

Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.

B. Requirements for Creation of New Non-Farm Parcels.

1. A new non-farm parcel may be created for uses listed in MCC 17.136.040(C) and (K) and MCC 17.136.050, except the residential uses in MCC 17.136.050(A) and (B) or a home occupation.

The applicant proposes a wildlife and habitat conservation area which is a use consistent with the open space designation listed in MCC 17.136.050(H)(3). The criterion is met.

2. The criteria in MCC 17.136.060 applicable to the use shall apply to the parcel.

The applicant has addressed the criteria in MCC 17.136.060 (A) & (I) which apply to the proposed wildlife and habitat conservation area, and staff found those criteria to be met. Therefore, this criterion is met.

3. A non-farm parcel shall not be approved before the non-farm use is approved.

The partition plat will not be signed off prior to assurance that the non-farm parcel will be sold to the US Fish and Wildlife service with deed restrictions in place to ensure the parcel will be in use as a conservation site in perpetuity. The criterion shall be met by conditions of approval prior to final approval of the non-farm parcel.

4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.

The applicant understands this requirement, and it shall be a condition of approval.

5. A division of land may be permitted to create a parcel with an existing dwelling to be used:

a. As a residential home as described in ORS 197.660(2) only if the dwelling has been approved under MCC 17.136.050(L).

b. For a historic property that meets the definition in ORS 358.480 and is listed on the National Register of Historic Places.

c. Parcels created under this section must meet the following criteria:

i. The new parcel containing the dwelling must be a minimum of one acre in size.

ii. The proposal shall not involve a unit of land containing a farm-relative dwelling previously authorized under the Marion County Code or previous ordinance.

- iii. The new parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source, the dwelling, and accessory buildings.*
- iv. The new parcel shall be adequately sized so that the existing dwelling meets the special setbacks from parcels in farm and forest use as described in MCC 17.136.070 if it was able to meet the special setbacks previously.*

The proposed division to create a conservation parcel will result in one parcel with an existing dwelling, however creation of that parcel is not the intent of the this application and therefore this criterion does not apply.

6. If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:

a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

As a result of the proposed land division to create a conservation parcel, there will be an approximately 11.08-acre parcel with a homesite created on the southern side of the access road that crosses the southern quarter of the subject parcel. This new 11.08-acre parcel will contain the homesite, accessory structures, and fields of row crops. The current property owners propose to sell the 58.92-acre conservation parcel to US Fish and Wildlife, while retaining the 11.08-acres south of the access road that contains their dwelling. This 11.08-acre parcel will be large enough to support continued residential, and hobby farm, use of the parcel. The criterion is met.

b. A parcel created pursuant to this subsection that does not contain a dwelling:

i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

The conservation parcel shall not be eligible for siting of a dwelling. ORS 195.120 applies to state parks and not federally managed conservation areas. The criterion is met.

ii. May not be considered in approving or denying an application for siting any other dwelling;

The conservation parcel shall not be considered in approving or denying an application for siting any other dwelling as a condition of approval.

iii. May not be considered in approving a redesignation or rezoning of forest lands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

The conservation area shall be established prior to the new parcel being created. No rezoning is required for the realization of the proposal. The conservation parcel, once created, shall not be considered in approving any redesignation or rezoning of forest or farmlands except for those proposals relating to allow a public park, open space, or other natural resource use. This shall be a condition of approval.

c. May not be smaller than 25 acres unless the purpose of the land division is:

i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

The proposed partition would create a 58.92-acre parcel containing the proposed US Fish and Wildlife habitat conservation area, and an 11.08-acre parcel containing the remnant homesite and hobby farm. The proposal is consistent with (ii.) of this criterion, being that a parcel smaller than 25-acres is being created to allow a transaction in which one party is the US Fish and Wildlife Service which is a public park and open space provider that has a cumulative ownership far exceeding 2,000-acres of total park or open space property. The criterion is met.

7. A division of land smaller than the minimum lot or parcel size described in subsections (A) and (B) of this section may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:

a. The religious organization has been approved under MCC [17.136.040\(C\)](#);

b. The newly created lot or parcel is not larger than five acres; and

c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in subsections (A) and (B) of this section either by itself or after it is consolidated with another lot or parcel.

No religious organization is proposed, the criterion does not apply.

8. A portion of a lot or parcel that has been included within an urban growth boundary and redesignated for urban uses under the applicable acknowledged comprehensive plan may be divided off from the portion of the lot or parcel that remains outside the urban growth boundary and zoned for resource use even if the resource use portion is smaller than the minimum lot or parcel size established under ORS [215.780](#), subject to the following:

- a. The partition must occur along the urban growth boundary; and*
- b. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;*
- c. If the parcel does not contain a dwelling, the parcel:*
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS [195.120](#);*
 - ii. May not be considered in approving or denying an application for siting any other dwelling; and*
 - iii. May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.*

No portion of the subject parcel is within an urban growth boundary, the criterion does not apply.

9. Land that is divided under this section for utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height, may not later be rezoned by the county for retail, commercial, industrial or other non-resource use, except as provided under the statewide land use planning goals or under ORS 197.732.

No utility facility is proposed, the criterion does not apply.

11. Based on the above findings, the applicant's proposal meets the requirements for establishment of an open space habitat conservation area and partition to create a non-farm parcel in order to transfer ownership of the conservation area to the U.S. Fish and Wildlife Service. The request is, therefore, **APPROVED** subject to meeting certain conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: June 2nd, 2026

If you have any questions regarding this decision contact John Speckman 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.



ZONING MAP

Input Taxlot(s): 081W260001200

Owner Name: GREGORY J WILT LT 50% & ELLEN W
LANCE LT 50% & WILT, GREGORY J TRE

Situs Address: 7908 BOEDIGHEIMER RD SE

City/State/Zip: SUBLIMITY, OR, 97385

Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: SUBLIMITY

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 574 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.