



# ***Marion County*** **OREGON**

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### **MARION COUNTY PLANNING COMMISSION**

**SUBDIVISION:** 21-001

**OWNER:** Brandon Fahlman – Steiwer Coalition LLC

**REQUEST:** Request for conceptual and detailed approval to divide a 9.33 acre parcel into four lots

**LOCATION:** Property is located on the 2100 Block of Steiwer Road SE, Jefferson (T9S, R3W, Section 14D, Tax Lot 1100).

**DATE:** May 26, 2021

### **REPORT OF THE FACTS:**

1. The subject property is located outside an Urban Growth Boundary, designated Rural Residential in the Marion County Comprehensive Plan, and zoned AR (Acreage Residential).
2. The property is located south of Steiwer Road SE, approximately one-half mile from where Steiwer Road intersects with Jefferson Highway SE (State Highway 164). The property is currently vacant and slopes downward approximately 70 feet from east to west. There is an intermittent stream that runs north to south across the western portion of the property.
3. Adjacent properties in all directions are zoned AR and are developed with single-family homes and residential accessory structures. The property is located in the Sensitive Groundwater Overlay Zone.

### **AGENCY COMMENTS:**

4. Marion County Tax Assessor's Office noted that a potential additional tax liability may exist which may need to be paid before a subdivision would be approved. According to ORS 92.095, all delinquent taxes and interest as well as taxes which have become a lien during the tax year must be paid before the plat shall be recorded.

Public Works Land Development and Engineering (LDEP) requested that the following conditions be included in the staff report for consideration by the Planning Commission.

## **Engineering Conditions**

**Condition A** – On the subdivision plat, dedicate 30 feet of public R/W half-width along the Steiwer Road and Happy Way frontages, including a 30-foot northeast property corner radius to achieve the standard for a Local road.

R/W dedication requirements for subdivisions are in accordance with Marion County Code (MCC) Sections 17.172.200 & 240. Nexus for this Condition is the immediate and/or future construction of public road improvements to serve the development as well as traveling public, and space for utilities.

**Condition B** – Prior to Plat approval, design, permit, and construct a Steiwer Road graveled widening frontage improvement consisting of 11-foot travel lane, 5-foot shoulder and up to 8-foot wide drainage ditch relocation earthwork, measured from R/W centerline.

Nexus is to provide sufficient access to the development per MCC 17.172.140 & 320. The Steiwer Road driving surface along the property northern frontage is currently 13 feet +/- in total width, which is insufficient to safely pass two-way traffic.

**Condition C** – Prior to plat approval, if the lots are configured such that direct individual lot access will be taken from what is currently unopened Happy Way, design, permit and construct an offsite improvement modification to Steiwer Road, just east of Happy Way, to flatten out the existing vertical curve to allow for adequate Intersection Sight Distance at the Happy Way intersection.

A deficiency in Intersection Sight Distance has been identified at a particular section on Steiwer Road east of Happy Way with respect to opening a road connection with Happy Way that would need to be remedied in order to approve the connection. Be advised that option for direct access to Steiwer Road is not precluded; if the Developer so chose to take direct lot access to Steiwer Road, then PW Condition C would not be required.

**Condition D** – Prior to plat approval, if the lots are configured such that direct individual lot access will be taken from what is currently unopened Happy Way, design, permit and construct a 20-foot wide county gravel road section including 2-foot shoulders and minimum 6-foot wide drainage ditches along the Happy Way frontage.

**Condition E** – Prior to plat approval, submit civil engineering/survey plans for any proposed onsite mass grading work. Plans shall identify existing conditions including topography and drainage features extending a minimum of 20 feet beyond the subject property borders.

**Condition F** – If the development were to be served by a single, private access easement, then prior to plat approval, provide a notarized Road Maintenance Agreement to be recorded concurrently with the subdivision plat.

This is intended to satisfy MCC 17.172.340.

## **Engineering Requirements**

G. In accordance with MCC 11.10, driveways must meet sight distance, design, spacing, and safety standards. The following access-related, numbered sub-requirements are applicable:

1) If the subdivision plan were to be modified such that direct lot access is not taken from Happy Way, but instead to Steiwer Road, one (1) shared access connection via private easement meeting Intersection Sight Distance requirements (at Steiwer Rd) shall serve all four lots

2) Access Permits will be required upon application for building permits for future dwellings.

H. With four lots at a minimum of two-acres each, and assuming a maximum of 5000 square feet (sf) per lot of semi- to impervious surfaces, a requirement for stormwater detention is not anticipated. If upon application for building permits greater than 5,000 sf of hardscape were to be proposed on a particular lot, potential need for stormwater disposal utilizing for example an underground exfiltration system, may be stipulated by PW Engineering at that time.

I. 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.

J. Any work, including utility work within the public right-of-way such as electrical interconnection, will require separate permits from Public Works.

K. The public road improvements will likely necessitate submittal of a Performance & Warranty Construction Bond in accordance with MCC 17.172.280.

L. Prior to obtaining any building permits, the Subdivision Plat must be recorded.

## **Engineering Advisories**

M. County GIS mapping depicts an unnamed, N-S oriented ephemeral (seasonal) creek traversing the subject property that is overlain by an NWI wetland layer. Applicant is advised that construction of improvements should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.

N. The local fire district has authority to require, as a condition for plat approval and/or issuance of building permits, that driveways and private easements meet fire district standards for access.

O. DEQ regulates erosion control for sites  $\geq$  5 acres of total disturbance through issuance of the NPDES 1200-C Construction Stormwater Erosion Permit.

Marion County Septic Division commented that Marion County has no septic records for the property. A site evaluation is required for each proposed lot in the subdivision. Additional agencies were contacted and given the opportunity to comment on the proposed subdivision. These agencies either failed to comment or had no issues with the proposal.

## **ANALYSIS AND CONCLUSIONS:**

8. The applicant is proposing to subdivide an undeveloped 9.33 acre parcel into four lots. Three of the lots will be 2.28 acres in size and one will be 2.27 acres. The applicant proposes dedicating the remaining .22 acres to improve Steiwer Road SE. The applicant is proposing for each lot to be accessed from Happy Way, which is currently an undeveloped right-of-way. Each lot will be served by its own on-site septic system and well.
9. Section 17.110.830 of the Marion County Code (MCC) states:

***WATER RESOURCE PROTECTION:** The impact of proposed land uses on water resources shall be evaluated and potential adverse impacts on the water resource shall be minimized. Where evidence indicates groundwater limitations and the development will use groundwater as a water supply, the developer shall demonstrate that adequate water can be provided without adversely affecting the ground water resource.*

The property is located in an identified groundwater limited area and in an SGO overlay zone. According to MCC 17.181.040, all development permits for new land uses that rely on water from exempt-use wells within the sensitive groundwater overlay zone shall be reviewed by the county to determine compliance with this chapter. The applicant hired Coffey Geoscience to conduct a hydrogeology review (review) in compliance with the requirements under MCC 17.181. The review found no evidence of presently declining water level trends over time or excessive and recent number of well Deepings or replacements in the aquifer within the study area. Marion County's peer reviewer, Russ Bunker, corroborated these findings.

If approved, the applicant must meet the water level monitoring requirements in MCC 17.181.120. This includes an approved water-level monitoring plan submitted to the county for peer review and is subject to approval by the county. The monitoring plan shall be approved and implemented before building permits are issued. A minimum of one observation well per 15 lots is required in each subdivision and at least one observation well is required for each phase of a subdivision. Monitoring shall begin at the state of development of Phase 1 of an approved subdivision. A report that includes an analysis of data collected to date shall be submitted to the county for peer review prior to approval of the next phase of development. Evidence of water level declines shall require preparation of a hydrogeology study prior to the release of the next phase of development if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development. Access easements that allow county and OWRD personnel to measure water levels shall be recorded with deed records for lots containing an observation well as a condition of approval of the subdivision. The requirement for a water-level monitoring plan will be made a condition of any approval.

10. **Roads, Streets and Easement:** Standards for this section are listed in MCC 17.172.140 through 17.172.340 and include:

*17.172.140 **ENGINEERING STANDARDS AND REQUIREMENTS** Engineering standards and requirements, including but not limited to streets, drainage, access, easements, and thoroughfare improvements, shall be those currently approved by the Marion County Department of Public Works.*

As outlined in their comments in #4 above, Marion County Land Development and Engineering will review all required street and roadway improvements as well as drainage and easements to

assure compliance with their engineering standards. Their recommended conditions outline the improvements required and will be included as a condition of approval.

*17.172.160 DEDICATION OR DEEDING OF ROADWAY No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as a roadway without first obtaining the approval of the Board and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board and recorded with the Marion County Clerk's Office.*

*17.172.180 DEAD-END STREETS When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County Department of Public Works.*

Happy Way SE is a dedicated, unopened public right-of-way that connects Steiwer Road SE to Farmer Road SE. The preliminary plat shows improvements up to the southern property line of the subject parcel and does not propose a turnaround.

*17.172.200 RADIUS AT STREET INTERSECTIONS The property line radius at street intersections shall be to the Marion County Public Works Department's standards.*

As outlined in their comments in #4 above, Marion County Land Development and Engineering has requested as a condition of approval that the applicant dedicate a 30-foot northeast property corner radius to achieve the standard for a Local Road. The applicant has shown this dedication on the preliminary subdivision plat.

*17.172.220 STREET GRADES No street grade shall be in excess of 12% unless the Commission or Hearings Officer finds that, because of topographic conditions, a steeper grade is necessary. The Commission or Hearings Officer shall require a written statement from the Director of Public Works indicating approval of any street grade that exceeds 12%.*

No street grades greater than 12% are being proposed.

*17.172.240 DEDICATION OF RIGHT-OF-WAY If land to be subdivided or partitioned will cause the termination of a roadway or borders a roadway right-of-way of less than standard width, the applicant shall dedicate sufficient land to provide for a cul-de-sac or to increase the half (or halves) of right-of-way bordering the subject parcel to one-half of the standard width. Unless otherwise specified for an individual street in the Zoning Ordinance, standard right-of-way widths are subject to the standards of the Marion County Department of Public Works.*

Marion County Land Development and Engineering requested that a condition of approval be added to require the applicant to dedicate 30 feet of public right-of-way along Steiwer Road and Happy Way frontages, along with a 30-foot northeast property corner radius to achieve the County standard for a Local Road.

*17.172.260 ADDITIONAL RIGHT-OF-WAY WIDTHS Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way may be required to be dedicated to allow all cut and fill slopes to be within the right-of-way.*

Marion County Land Development and Engineering did not indicate that additional right-of-way widths would be required beyond what is mentioned above.

*17.172.280 PERFORMANCE STANDARDS Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the applicant shall meet the requirements of this section.*

Marion County Land Development and Engineering commented that the public road improvements will likely necessitate submittal of a Performance & Warranty Construction Bond in accordance with this requirement.

*17.172.300 UTILITY EASEMENTS Utility easements meeting the approval of the Marion County Department of Public Works shall be provided to all newly created lots.*

Marion County Land Development and Engineering will review the subdivision plat to assure this standard is met prior to it being recorded.

*17.172.320 STREET OR ROAD IMPROVEMENTS All street or road improvements including pavement, curbs, sidewalks, signage, and surface drainage shall be in accordance with the specifications and standards prescribed by the Director of Public Works. Subdivision plats shall not have final approval until such time as the Director of Public Works, or his/her designee, is satisfied that the street improvements will be completed in accordance with the specifications and standards set forth by the Marion County Department of Public Works.*

No building permits within a subdivision or partition shall be issued until the Director of Public Works, or his/her designee, approves that the improvements have been completed or, sufficient improvement agreements and financial guarantees have been recorded.

As noted in their comments, Marion County Land Development and Engineering will review all required street and roadway improvements to assure compliance with their engineering standards.

*17.172.340 PRIVATE STREETS In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the Homeowners Association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.*

Marion County Land Development and Engineering commented that if the development were to be served by a single private access easement, then prior to plat approval, the applicant must provide a notarized Road Maintenance Agreement to be recorded concurrently with the subdivision plat.

11. **Lots:** Standards for this section are listed in MCC 17.172.360 through 172.380 and include:

*17.172.360 LOT SIZE All lots approved under this Chapter shall have sufficient area to be consistent with the intent of the Comprehensive Plan and to provide adequate area for the intended structures and uses, all setbacks, access and spacing required for water supply and waste water disposal. Lots to be served by public or privately owned sewage collection and disposal system must meet the requirements and have approval of the Oregon State Department of Environmental Quality before being recorded or sold. State regulations, soil types, drainage,*

*terrain, and location may be included as part of the criteria used by the State or County in determining appropriate lot sizes for lots using subsurface disposal of sewage. Lot size and dimension shall be as prescribed in the corresponding zone.*

The Comprehensive Plan states that all lots must be, as a minimum, two acres in size and the AR (Acreage Residential) zone has a minimum lot size of two acres. The proposed lots range from 2.27 to 2.28 acres each. All of the lots will conform to the minimum lot size standards and are of sufficient size and shape to accommodate a dwelling.

*17.172.380 CURVED FRONT LOT LINES When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.*

The applicant does not propose any curved front lot lines and the final plat will be required to meet all survey requirements.

12. **Sewage, water and utilities:** Standards for this section are listed in MCC 17.172.400 through 17.172.440 of and include:

*17.172.400 SEWAGE DISPOSAL. All new or refigured lots or parcels, 10 acres or smaller in size, shall be served by an authorized sewage disposal system. Subsurface sewage disposal for individual parcels shall meet the requirements of the Department of Environmental Quality (DEQ) and the Marion County building inspection division. Those subsurface sewage systems that are used by a community, sanitary district, industry, or incorporated area must be authorized by the Department of Environmental Quality (DEQ) via the Marion County building inspection division. Installation and maintenance shall be in accordance with the Department of Environmental Quality's regulations and requirements. All new or reconfigured lots or parcels with an existing on-site septic system, that were authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system. The commission, director, or hearings office may require connection to an existing sewage collection and treatment system regardless of lot suitability for subsurface disposal if the commission, director, or hearings officer deems it necessary and provided the connection is available*

A condition of approval will require the applicant obtain a favorable septic approval for each proposed lot prior to the subdivision plat being recorded. In addition, the County On-site Wastewater Specialist is required to sign the plat.

*17.172.420 WATER SUPPLY All lots or parcels shall be served by an authorized public or private water supply system or individual private wells.*

- (a) **Public or Private Systems:** Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the Marion County Department of Public Works.*
- (b) **Individual Private Wells:** Individual private wells must meet the construction requirements of the Oregon State Water Resources Department and be located in accordance with requirements of the State Health Division in relation to public or private*

*sewage disposal systems. The bacteriological quality of this water may be determined through the Marion County Health Department. Upon receiving the recommendations from the State Health Division or Marion County Health Department, the Hearings Officer or Commission may require the use of an engineered public or private water system in any proposed subdivision. Other criteria to be considered in making this determination are the recommendations contained in the Marion County Water Quality Management Plan, Marion County Comprehensive Plan, and Chapter 181 of the Marion County Rural Zoning Ordinance.*

The applicant indicates that water will be provided by individual private wells, not by a private or public water system. Privately owned wells—including their location—are not regulated by Marion County. Wells in the development must meet the requirements of the Oregon Water Resources Department.

*17.172.430 STORMWATER MANAGEMENT. The impact of proposed of subdivisions and partitions on stormwater runoff shall be evaluated and potential adverse impacts shall be mitigated. Where evidence indicates stormwater runoff will have an adverse impact on a drainage system or natural drainage network, the developer shall demonstrate that proposed stormwater management on the subject property will compensate for the proposed change per county standards. Compliance with this requirement shall be demonstrated by compliance with department of public works engineering standards.*

Marion County Land Development and Engineering commented that the County does not anticipate requiring stormwater detention, assuming each lot will be developed with no more than 5,000 square feet of semi-impervious to impervious surfaces. If the amount of semi-impervious services exceeds 5,000 square feet on a particular lot, stormwater management improvements may be required.

*17.172.440 UNDERGROUND UTILITIES EASEMENTS Underground easements for utilities and overhead utility facilities shall be provided by the subdivider and set forth on the final plat. When possible, such easement shall be centered on or bordering a lot line. The subdivider shall provide easements on both sides of all road or street rights-of-way of 60 feet or less.*

This will be made a condition of any approval.

13. **Access Standards:** *MCC 17. 172.560 requires that all lots must have a minimum of 20 feet of frontage on a public right-of-way, or, when an access easement is proposed to serve one or more lots in any partitioning, the location and improvement of the roadway access shall conform to the following standards which are necessary for adequate access for emergency vehicles. Evidence that the access has been improved to these standards shall be provided prior to the issuance of building permits on the parcels served by the access easement.*
- (a) Have a minimum easement width of 20 feet;*
  - (b) Have a maximum grade of 12%;*
  - (c) Be improved with an all-weather surface with a minimum width of 12 feet;*
  - (d) Provide adequate sight-distance at intersections with public roadways;*
  - (e) Be provided with a road name sign at the public roadway as an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*



As currently proposed, each of the four lots will have a minimum of 127 feet of frontage along Happy Way SE. As discussed in their comments, Marion County Land Development and Engineering would require that Happy Way SE be improved to the above standards prior to plat approval.

**STAFF RECOMMENDATION:**

Based upon a review of the subdivision and zoning provisions of the Marion County Rural Zoning Ordinance and comments received from commenting agencies, staff recommends the proposed subdivision be given detail approval subject to the following conditions:

1. Prior to recording the final plat, the applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
2. Prior to submission of the final plat, the applicant shall submit evidence of compliance with the development and access standards of the Jefferson Fire Department.
3. 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*** – On the subdivision plat, dedicate 30 feet of public R/W half-width along the Steiwer Road and Happy Way frontages, including a 30-foot northeast property corner radius to achieve the standard for a Local road.

***Condition B*** – Prior to Plat approval, design, permit and construct a Steiwer Road graveled widening frontage improvement consisting of 11-foot travel lane, 5-foot shoulder and up to 8-foot wide drainage ditch relocation earthwork, measured from R/W centerline.

***Condition C*** – Prior to plat approval, if the lots are configured such that direct individual lot access will be taken from what is currently unopened Happy Way, design, permit and construct an offsite improvement modification to Steiwer Road, just east of Happy Way, to flatten out the existing vertical curve to allow for adequate Intersection Sight Distance at the Happy Way intersection.

***Condition D*** – Prior to plat approval, if the lots are configured such that direct individual lot access will be taken from what is currently unopened Happy Way, design, permit and construct a 20-foot wide county gravel road section including 2-foot shoulders and minimum 6-foot wide drainage ditches along the Happy Way frontage.

***Condition E*** – Prior to plat approval, submit civil engineering/survey plans for any proposed onsite mass grading work. Plans shall identify existing conditions including topography and drainage features extending a minimum of 20 feet beyond the subject property borders.

***Condition F*** – If the development were to be served by a single, private access easement, then prior to plat approval, provide a notarized Road Maintenance Agreement to be recorded concurrently with the subdivision plat.

4. Prior to recording the final plat, the applicants shall submit evidence that all property taxes due to Marion County have been paid in full.
5. If an access easement is proposed to serve the properties, prior to recording the final plat, the applicant shall provide a copy of a maintenance agreement with provisions for maintenance of the private access easements.
6. The applicant shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The applicant is advised that a plant service report from a title company must be submitted with the final mylar.
7. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
8. If the applicant proposes a private access easement, the easement shall be named in accordance with the requirements of Marion County Code Chapter 11.55. The final approved name shall be shown on the plat and the access easement shall also provide for utilities.
9. Prior to recording the final plat, the applicant shall apply for, and pay, any fees associated with the street signs for any proposed private roads.
10. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
11. The applicant is advised to contact the Oregon Department of State Lands, as there is an inventoried wetland on the property and additional permits may be required.
12. A well monitoring plan meeting the requirements of MCC 17.181.120(B) shall be submitted for peer review and approval. The approved plan shall be implemented prior to issuance of building permits on the resulting lots.

Ryan Dyar  
Associate Planner

Date: June 8, 2021

If you have any questions regarding this decision contact Ryan Dyar 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.