

Open Space Land Divisions in Exclusive Farm Use and Forest Use Zones

Jim Cathcart, District Manager, West Multnomah Soil & Water Conservation District

Multnomah County Planning Commission Meeting, November 1, 2021 @ 6:30 pm

1. Chair Ingle, Members of the Planning Commission, for the record my name is Dr. James F. Cathcart, District Manager, West Multnomah Soil & Water Conservation District.
2. West Multnomah Soil & Water Conservation District is a local government special district governed by an elected Board of Directors whose mission is to provide resources, information, and expertise to inspire people to actively improve air and water quality, fish and wildlife habitat, and soil health. Our service territory is the portion of Multnomah County west of the Willamette River, all of Sauvie Island including the Columbia County portion of the Island, and a portion of the Bonny Slope region of the Tualatin Mountains in Washington County.
3. Why am I here?
 - a. Open Space Land Divisions are an important conservation tool allowed under state law that Multnomah County does not currently authorize in Exclusive Farm Use (EFU), Commercial Forest Use (CFU) and mixed farm-forest land use zones.
 - b. I am here requesting that the planning commission add developing the necessary ordinances and/or changes to the Multnomah County comprehensive plan to make Open Space Land Divisions -- as authorized in state statutes ORS 215.263(10) (circa 1999) for EFU lands and ORS 215.783 (circa 2007) for CFU and mixed farm-forest lands – to the 2022 Planning Commission Work Program
 - i. Preferably under Work Program A2 EFU / CFU Omnibus, and to Attachment 2: EFU – CFU Omnibus Project List.
 - ii. Or, add this to the On-deck Project list, which is Attachment 1 to the Work Program.
4. What are Open Space Land Divisions?
 - a. They allow for the creation of a new parcel of land below the current minimum lot sizes in EFU, CFU and mixed farm-forest zones for park, open space, and/or conservation purposes.
 - i. A provider of public parks or open space, or a not-for-profit land conservation organization, must purchase at least one of the resulting parcels and manage it as a public park, open space or for conservation purposes.
 - ii. A parcel that is created by the land division that contains a dwelling must be large enough to support continued residential use.
 - b. Authorization is likely needed since ORS 215.263(10) and ORS 215.783 both state "the governing body of a county or its designee may approve a proposed division of land ..."
 - c. Putting this on the Work Program will allow the Planning Commission to evaluate if and how these long-standing statutes could be implemented in the county.
5. Why Are Open Space Land Divisions Needed?
 - a. Focus on Conservation – Allows government bodies and not-for-profit conservation organizations to purchase the portion of a larger parcel needed for conservation.
 - b. More Cost-Effective -- Do not need to purchase expensive home sites. Limited conservation dollars are used solely for conservation purposes.

Open Space Land Divisions in Exclusive Farm Use and Forest Use Zones

Jim Cathcart, District Manager

West Multnomah Soil & Water Conservation District

- c. Serves Both the Landowner and the Conservation Organization -- Conservation acquisitions frequently take place when a landowner is no longer capable of managing a large parcel of land. Removing the home site from the larger parcel is a very straightforward process that both addresses landowner interests and the conservation organization's interest.
 - d. Keeps Conservation Organizations Out of the Rental Business -- Many conservation organizations lack the capacity to maintain a home site on a conservation property as a rental and will frequently resort to demolishing the home to avoid the long-term investment.
 - e. Public Conservation Benefit -- The conservation of priority wildlife species is attained through maintaining and conserving functional habitats at the landscape scale. Acquiring smaller parcels are integral in establishing connectivity between regionally significant conservation areas.
 - f. Working Conservation Lands -- Since the open space parcel prohibits development, the resulting footprint of the partitioned parcels is the same as before the partition -- the home site and adjacent EFU or CFU zoned lands with the addition of significant added permanent conservation value. Land areas purchased for their conservation value do not exclude farm or forestry use as some farm and forestry practices are needed to maintain the desired conservation values.
6. Example
- a. A Sauvie Island farmer wishes to engage in a land use partition with the Confederated Tribes of Siletz Indians so the Tribe can continue farming the property with a cultural use lens.
 - b. Current Multnomah County land use provisions prohibit the desired land use division due to minimum parcel size requirements.
 - c. County authorization of the state Open Space Land Division statutes would remove significant barriers to this acquisition by lowering the Tribe's cost and meeting the landowner's needs for continued residence and community farming on the retained parcel.
 - d. The residents and visitors to Multnomah County would benefit:
 - i. 120 acres of wetlands, pasture, and riparian hardwood forest -- in a key habitat connectivity corridor -- would be conserved permanently.
 - Historically, the property consisted of riparian and wetland forest and seasonally wet prairie. Restoring these habitat features would established patches of camas and Wapato (both of which are cultural first foods) and restore patches of native plant species suitable for basketry and other cultural crafts.
 - The wetlands would provide significant stopover habitat for migratory waterfowl -- an important south Island compliment to the 12,000 acre Sauvie Island Wildlife Area.
 - ii. Approximately 1300 feet of Willamette River shoreline on the property would be conserved and provide public recreation opportunity along this reach of the Willamette.
 - iii. The restored natural features of the property is would be highly accessible for cultural use by tribal members residing within Multnomah County -- which is the motivating factor behind the tribe's purchase -- because it is directly accessible via public transit from the tribe's Portland area office.

Prepared by Jim Cathcart, West Multnomah Soil & Water Conservation District; Fritz Paulus, Attorney at Law; and Joshua Seekatz, Confederated Tribes of Siletz Indians -- November 1, 2021.