



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

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### **MARION COUNTY PLANNING COMMISSION**

**SUBDIVISION:** 21-003

**OWNER:** George Hayen

**REQUEST:** Request for conceptual and detailed approval to divide an 8.40 acre parcel into four lots.

**LOCATION:** Property is located at 5193 Gath Rd SE, Salem (T8S, R2W, Section 17D, Tax lot 1400).

**DATE:** December 30, 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 north of Gath Rd, approximately 370 feet its intersection with Barcelona Dr SE. The property is currently developed with a single family dwelling and slopes down to the west by roughly 70 feet of elevation across the parcel. There are no mapped streams, geo-hazards or flood zones on this property; it also lies outside of any SGO (Sensitive Ground Water Overlay) zones.
3. Adjacent properties in all directions except north are zoned AR and are developed with single-family homes and residential accessory structures. The property to the north is zoned SA (Special Agriculture) and is currently in farm use.

### **AGENCY COMMENTS:**

4. 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 CONDITION**

*Condition A* –Prior to subdivision plat approval, provide a notarized Road Maintenance Agreement to be recorded concurrently with the subdivision plat, or in the alternative, that access easement maintenance is addressed within CCNR documents.

This is intended to satisfy MCC 17.172.340.

## **ENGINEERING REQUIREMENTS**

- B. Per the land use Application site plan, access shall be shared at the existing paved approach. Access Permits will be required upon application for building permits for future dwellings.
- C. Given the sloping topography, relative downhill location of proposed access drive and proximity to neighboring properties, parcel-specific, gutter downspout stormwater runoff control is required in the form of an exfiltration system, as generally depicted on the land use Application site plan. Given the local soil conditions, a residential system is typically sized as a 200' long, 10" diameter perforated pipe buried within a 3' x 3' round rock-filled trench, wrapped in filter fabric and oriented parallel to grade. Such a system will need to be specified on the Building Permit site plan. Final installation acceptance will be a prerequisite for issuance of a Certificate of Occupancy.
- D. 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.
- E. Utility work within the public right-of-way such as electrical interconnection will require separate permits from Public Works.

## **ENGINEERING ADVISORY**

DEQ regulates erosion control for sites  $\geq$  1 acre of cumulative total ground disturbance by registration for coverage under the NPDES 1200-C Construction Storm water Erosion Permitting Program.

Marion County Septic Inspection commented: “An existing system evaluation will be required for the existing septic system attached to the existing home. Each parcel will require a septic site evaluation.

Marion County Survey Department commented:

1. Subdivision name must be approved per ORS 92.090.
2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. A current or updated title report must be submitted at the time of review.

7. 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.  
Re-plat:
8. Must comply with all provisions per ORS 92.185 (6)
9. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
10. Checking fee and recording fees required.
11. A current or updated title report must be submitted at the time of review.

Marion County Tax Assessor provided comments related to the subject properties property taxes.

Marion County Building Inspection commented: "No building inspection issues. Permits are required for any future development of structures and utilities on private property.

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

### **ANALYSIS AND CONCLUSIONS:**

5. The applicant is proposing to subdivide an 8.40 acre parcel with one dwelling into four lots. The existing dwelling will remain on a 2.4 acre lot while the other three lots will all be 2.0 acres. Each lot will be served by its own septic system and well. The applicant is proposing access to the lots by creating a private lane (easement) named Destiny Ln SE.
6. **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.*

No public right of way dedication is proposed with this application; rather, an easement is being created for access to the parcels created by this subdivision. It does not appear necessary to continue the access easement to the end of the property line as the property it abuts is not dividable in its current zoning (Special Agriculture) which has an 80 acre minimum to divide.

That parcel is currently 64.23 acres. Marion County LDEP will ensure any turnaround meets applicable standards.

*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 stated in finding #4, Marion County LDEP will require an access permit that will ensure that the property line radius at street intersections shall be to the Marion County Public Works Department's standards. Additionally, they will review the survey and plat to confirm this standard.

*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. The applicant shows a grade of 2% on the construction plans.

*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 did not request that additional right of way be dedicated for this subdivision.

*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 request that additional right of way be dedicated for this subdivision.

*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 did not request that a Performance & Warranty Construction Bond be submitted.

*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. Applicant depicts a 40 foot wide easement for utilities.

*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. This can be made a condition of approval.

7. **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 2.40 to 2.00 acres in size. 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.

8. **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 shall 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 “parcel-specific, gutter downspout storm water runoff control is required in the form of an exfiltration system, as generally depicted on the land use Application site plan. Given the local soil conditions, a residential system is typically sized as a 200’ long, 10” diameter perforated pipe buried within a 3’ x 3’ round rock-filled trench, wrapped in filter fabric and oriented parallel to grade.”

The specifics of these systems will be shown on building plans and reviewed and approved by LDEP.

*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.*

No street right of ways are being proposed, however, the applicant depicts a 40 foot easement for utilities that encompasses the access easement as well. This 40 foot width will cover both sides of the access easement and will be reviewed and approved by LDEP to ensure compliance with this standard.

9. **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, parcel 1 will have 371 feet of frontage on Gath Rd SE. Parcels 2 through 4 will be accessed from an easement named “Destiny Ln SE” that will conform to the above access standards as depicted on the plan set submitted with this application.

**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 Turner 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* –Prior to subdivision plat approval, provide a notarized Road Maintenance Agreement to be recorded concurrently with the subdivision plat, or in the alternative, that access easement maintenance is addressed within CCNR documents
4. 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.
5. The applicant shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The applicant is advised that a plat service report from a title company must be submitted with the final mylar.
6. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
7. 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 “Destiny Ln SE” shall be shown on the plat and the access easement shall also provide for utilities.
8. 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.
9. 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.

Austin Barnes  
Associate Planner

Date: 1/3/2022

If you have any questions regarding this decision contact Austin Barnes at (503) 588-5038.

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