

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
PARTITION CASE NO. 23-007**

APPLICATION: Application of Rodrick & Catherine Leabo to partition a 7-acre parcel into two parcels consisting of 2 acres and 5 acres in an Acreage Residential (AR) zone located at 4924 Dehlin Lane SE, Turner. (T9S; R2W; Section 20C; Tax Lot 400)

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 **April 29, 2025 (two years)**. 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 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:

Prior to recording the final plat:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036). **The plat shall contain the notation that it is the result of Marion County Partition Case P23-007.** Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**
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 plat approval, acquire and Access Permit, and under the Permit widen and pave with hot mix asphalt and replace/upsizes the culvert at the Dehlin Lane access approach to Parrish Gap Road.*

***Condition B** – Prior to plat approval, notarize a Declaratory Statement to be recorded simultaneously with the plat for maintenance of Dehlin Lane private access easement.*
4. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
5. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.

Prior to issuance of building permits on the resulting parcels,

6. The partition plat shall be recorded.
7. The applicant shall submit evidence that the access easement has been improved when requested to the standards in MCC 17.172. The access easement is also to provide for utilities.
8. The applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
9. The applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division for each resulting parcel once the plat is recorded. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
10. The applicant shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division once the plat is recorded. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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

11. 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. All parcels shall be a minimum of two acres in size.

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

12. 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).
13. The applicants should contact the Turner 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.
14. All or a portion of this property has been identified as wetland on the statewide wetland's inventory. If the site is a jurisdictional wetland, this proposal may require a permit from the Division of State Lands and/or the Army Corps of Engineers. You must obtain any necessary state or federal permits before beginning your project. Marion County is not liable for any delays in the processing of a state or federal permit.
15. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

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 **May 1, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 2, 2023**, unless further consideration is requested.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas.
2. The subject parcel is located at the western end of Dehlin Ln SE, approximately 620 feet west of its intersection with Parrish Gap Rd SE. The parcel contains a manufactured home and 4 accessory structures related to farm use and residential use. Marion County requires that parcels be legally created before land use decisions can be approved. Subsequently, parcels either need to be recorded by deed prior to September 1st, 1977, or created through the land use process, either by partition or subdivision. The subject parcel was surveyed, and the survey was recorded on September 1st, 1977. The deed for the parcel was recorded on September 26th, 1977, in reel 97, page 1146. The intent at the time was to create a legal parcel and the subject property meets the minimum lot size for the AR zone and the proposed parcels also meet the minimum lot size for the AR zone. This partition will create two legally created parcels that will be recorded via partition plat. The parcel is legal for land use purposes.
3. Surrounding uses are residential to the north, east and west. These adjacent lands are zoned AR and contain single family dwellings. However, beyond the AR parcels to the east and west lies farmland zoned SA (Special Agriculture). This zoning is already directly south of the subject parcel. The area is best characterized as an intersection of residential lands and farmlands, the prominent crop appears to be grass seed and hay.
4. The applicant proposes to partition a 7-acre parcel into two parcels consisting of 2 acres and 5 acres.
5. Marion County Surveyor's Office commented:
 1. Parcels must be surveyed and monumented.
 2. Per ORS 92.050, plat must be submitted for review.
 3. Checking fee and recording fees required.
 4. A 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.

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

ENGINEERING CONDITION

Condition A – Prior to plat approval, acquire and Access Permit, and under the Permit widen and pave with hot mix asphalt and replace/upsized the culvert at the Dehlin Lane access approach to Parrish Gap Road.

Condition B – Prior to plat approval, notarize a Declaratory Statement to be recorded simultaneously with the plat for maintenance of Dehlin Lane private access easement.

ENGINEERING ADVISORIES

- C. At the time of application for building permits on the developable parcel an Access Permit will be required. The driveway approach to the developable parcel to be served by D Street will need to align perpendicular to the public road.

- D. Transportation System Development & Charges and Parks fee will be assessed at the time of application for building permits.*
- E. Permits from MCPW Engineering are required for utility service extensions within the Parrish Gap public right-of-way.*
- F. Dehlin Lane is depicted as a 15-foot wide access easement on Partition Plat 2005-34. The Lane already serves two existing dwellings, and is the legal access for undeveloped Parcel 2 of the noted Partition Plat. Given its length, the Lane is classified as a Fire Apparatus Access Road per OFC.*
- G. A pond and seasonal stream on the property are mapped on NWI inventory.*

Marion County Building Inspection commented:

“The proposed property lines to create Parcel 2 are recommended to be established 3 feet or more from all existing residential use structures, or additional fire resistive construction may be required to be installed onto the existing structures less than 3 feet to new property lines. Also, based on the contours of the property, a geotechnical analysis of the slopes and/or soils may be required and the results of which be implemented into the structural design of any proposed structures that require a building permit.”

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

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

- 6. Chapter 17.181 MCC establishes provisions for partitioning property in an SGO zone. In the SGO-5 zone, creating a parcel less than five acres in size requires the applicants to submit a “Hydrology Review” meeting the provisions listed in MCC 17.181. The review indicates that there is a sustainable long-term supply of ground water for the proposed development. However, the County requires a Declaratory Statement be recorded with the property deed. This notifies the applicant and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. The County also requires submission of static water level measurements prior to recording the plat for all existing wells, and prior to building permits for all undeveloped parcels.

The applicant has submitted a hydrology study to Marion County Planning for peer review and the results of this peer review were positive. They satisfy the requirements in chapter 17.181 of the Marion County Rural Code pertaining to a Sensitive Groundwater Overlay. Additionally, prior to gaining final plat approval, static water level measurements shall be recorded and submitted to Marion County for the existing well.

- 7. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres and the new parcels are consistent with this standard. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
- 8. Chapter 17.128.050 MCC establishes special siting standards for dwellings near resource zones:
 - (a) *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses.*
 - The proposed parcel will not border than agricultural lands. The criterion does not apply.
 - (b) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

The dwelling will be sited within 500 feet of agricultural lands and recording a farm/forest declaratory statement shall be made a condition of approval.

9. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED.**

Brandon Reich
Planning Director

Date: April 14, 2023

If you have any questions regarding this decision contact Austin Barnes 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.