

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. 23-023**

APPLICATION: Application of Delk Living Trust to partition a 7.3-acre parcel into three parcels consisting of 3.3, 2.0 and 2.0-acres each in an AR (Acreage Residential) zone located at 5653 54th Court SE (T8S; R2W; Section 17D; Tax Lot 1000).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Partition application subject to certain conditions. **PLEASE READ ALL CONDITIONS.**

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **October 13, 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:

1. The applicants shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and it shall contain the notation that the survey is the result of Partition Case 23-023. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Per the Marion County Surveyor's Office, parcels must be surveyed and monumented. Per ORS 92.050, the plat must be submitted for review, checking and recording fees will be required, and 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.
3. Prior to recording the plat, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
4. The proposed "Parcel 1" (containing the existing dwelling) shall remain addressed **5653 54th Ct SE**. Proposed "Parcel 2" (vacant) shall be addressed **5147 Delk Ln SE**, and the proposed "Parcel 3" (vacant) shall be addressed as **5150 Delk Ln SE**. Addresses will be finalized at the time that building permit applications are reviewed and may change if alterations are made to the property or nearby properties.

Prior to issuance of building permits on the resulting parcels:

5. The applicant shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division for the resulting Parcel 3. 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:

6. 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.
7. 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 restrictions or conditions. It is recommended that the agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. 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).
9. 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.

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

October 13, 2023. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 14, 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 north of the intersection of Gath Rd SE and Lipscomb St SE. The parcel contains one legal dwelling built in 1975 and several farm/accessory structures. The property was created Nov. 5, 1970 via an approved subdivision (Estate 1 of Block 3 in Green Hills East). The subject parcel has not been altered since its creation and therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, is considered legal for land use purposes.
3. Surrounding properties to the west, north and east are also rural residential and zoned AR, all of which are developed with homesites. The property to the south, across Gath Rd SE, is zoned Special Agriculture (SA). It is developed with a home and a portion of it is being farmed.
4. The applicant proposes to divide the 7.30-acre subject parcel into three parcels consisting of 3.30 acres, 2.00 acres, and 2.00 acres each.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor 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.

Marion County Land Development Engineering and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. Prior to plat approval, acquire an Access Permit, and under the Permit construct a shared access approach on 54th Ct at the north end of the property to serve the two developable parcels. The approach may be graveled or paved with asphalt. Access to the public road must be shared.
- B. Prior to plat approval, also under the Access Permit noted above, limb a tree(s) near the southwest corner of Lipscomb St and 54th Ct to facilitate adequate Intersection Sight Distance.

Turner Fire District commented:

Fire Apparatus Access and Fire Protection Water Supply Standards.

Fire apparatus access and fire protection water supply must comply with the Oregon Fire Code (OFC) and the Marion County Fire Code Applications Guide (MCFCAG). The applicant is encouraged to contact Turner Fire District for assistance with determining how to address fire service features including fire apparatus access and fire protection water supplies for this location and/or project.

Marion County Building Department commented: "No Building Inspection concerns. Permits are required to be obtained prior to development and/or utilities installation on private property."

Marion County Tax Office provided comments relating to the parcel's property taxes.

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

6. 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 will be consistent with this standard. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
7. Chapter 17.128.050 of the Marion County Code 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.*
 - (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 subject property is near SA land in farm use to the south. However, the SA land is across a 60 foot wide dedicated right of way (Gath Rd SE), and the area being farmed is setback from the public road with a firebreak/dirt road located on the SA parcel between the fence line along Gath Rd SE and the farmed area. In addition to this, any structures built on the proposed Parcel 3 will have a required setback. When the total distance of said circumstances is calculated it becomes unnecessary for a special setback to be required. The criterion in #8(a) is met. The filing of a declaratory statement for Farm/Forest use on the proposed Parcel 3 shall be made a condition of approval. Therefore, criterion in #8(b) is met.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: September 28, 2023

If you have any questions regarding this decision contact Nicole Inman 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.