

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. 23-024**

APPLICATION: Application of Stephen and Stella Beyer to partition a 4.88-acre parcel into two parcels consisting of 2.4 and 2.4-acres each in an AR (Acreage Residential) zone located in the 6300 block of Kirkwood Ln NE, Silverton T6S; R1E; Section 28; 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 6, 2024** (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). Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed). Parcels must be surveyed and monumented. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fees required. 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.
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. The applicant shall sign and submit a Farm/Forest Declaratory Statement for both parcels to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. The partition plat shall be recorded.
5. The applicant shall submit evidence that the access easement has been improved to the standards in MCC 17.172. The access easement is also to provide for utilities.
6. **The new lots shall be addressed as follows: Northern lot – 6372 Kirkwood Ln NE. Southern lot – 6282 Kirkwood Ln NE.** These addresses subject to change due to driveway or home location movement.

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

7. 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.
8. 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 #8, 9 and 10 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

9. 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).
10. The applicants should contact the Silverton 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.
11. 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

October 6, 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 7, 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 intersection of Abiqua Rd NE and Kirkwood Ln NE, a private access easement. The property is heavily wooded and abuts Abiqua Creek. The property is currently vacant and was the subject of Measure 37/49 Case M06-169 and is considered legal for land use purposes.
3. Surrounding uses are residential on the southern side of Abiqua Rd NE. parcels are zoned AR and developed with small acreage homesites with mixed small farms. North of Abiqua Rd NE are large farm parcels in commercial agriculture production zoned EFU (Exclusive Farm Use).
4. The applicant proposes to divide the property into two parcels and develop single family dwellings on each parcel.

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 REQUIREMENTS

- A. Prior to plat approval, acquire an Access Permit, and under the Permit pave the Kirkwood Ln driveway approach with hot mix asphalt.
- B. Utility service extensions within the Abiqua Road R/W require permits from MCPW Engineering.
- C. Transportation System Development and Parks Charges (SDCs) will be assessed upon application for building permits.

Marion County Building Department commented:

“If homes or other structures exist on the current parcel, Marion County Building Inspection recommends the new property line be established at least 3 feet from an existing home and/or accessory structures under 4,000 sq. ft. Permits would be required to be obtained prior to any development and/or utilities installation on private property.”

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. 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.
7. Although the proposed partition is appropriate, the County requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area.
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 21, 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.