

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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. 18-016**

APPLICATION: Application of Ronald and Rebecca Mitts to divide a 9 acre parcel into three parcels containing 2 acres, 2 acres, and 5 acres each in an AR (Acreage Residential) zone located at 5614 Gath Road SE, Salem (T8S; R2W; Section 21B; tax lot 1800).

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 **July 25, 2020**. 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).
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 use until the following condition has been satisfied:

Condition A – Prior to plat approval, under an Access Permit, provide a 20 x 20 paved approach in HMAC centered on an approved access easement, and conduct roadside vegetation trimming/removal in support of adequate Intersection Sight Distance for the access [MCC 11.10 & 17.172.320].
4. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System, has named the proposed private access easement **“Hollow Stump Ln SE”**. The name must be shown on the final partition plat, and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works **prior to the plat being recorded.**
5. The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.

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 to the standards in MCC 17.172 listed in Finding #7. The access easement is also to provide for utilities.
8. The applicant shall sign and submit a Farm/Forest Declaratory Statement (enclosed) 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.
9. A special dwelling setback of 100 feet shall be maintained from the west property line of the most westerly proposed parcel.

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

10. 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 two acres in size, prior to any right-of-way dedication.
11. 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 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 Turner Fire District to obtain a copy of the District's Recommended Building Access, water supply 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 **July 25, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 26, 2018** 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 on the south side of Gath Rd SE approximately 200 feet west of its intersection with 57th Ct SE. The 9.01 acre parcel identified as tax lot 1800 contains an existing dwelling, accessory structures, well

and septic system. The property was created in its current configuration by deed recorded prior to September of 1977, and is considered a legally created parcel for land use purposes.

3. Surrounding properties to the north, east and south are zoned AR and in residential use. Property to the west is zoned SA (Special Agriculture) and in farm use.
4. The applicant proposes to divide a 9 acre parcel into three parcels containing 2 acres, 2 acres, and 5 acres each.
5. Public Works Land Development and Engineering Permits requested that Condition A be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file. LDEP will not approve the final use until the following condition has been met:

*“**Condition A** – Prior to plat approval, under an Access Permit, provide a 20 x 20 paved approach in HMAC centered on an approved access easement, and conduct roadside vegetation trimming/removal in support of adequate Intersection Sight Distance for the access [MCC 11.10 & 17.172.320].*

Access work is an Engineering Requirement, but is being made a Condition in order to expedite timing for completion.”

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee, second mylar fee, and recording fee required. A current or updated title report must be submitted at the time of review. Title reports shall be no less 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 Building Inspection commented that permits are required for new construction or placement of a manufactured home.

Marion County On-Site Sewage commented that an approved septic evaluation will be required for all undeveloped parcels. For sites with an existing septic system, the applicant shall request a review and complete any steps necessary for system approval.

Marion County Tax Assessor provided information regarding taxes on the subject properties.

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. In addition, the resulting undeveloped parcels, if they can obtain septic approval, are of sufficient size and shape to meet the development standards in the AR zone.
7. MCC 17.172.560 **ACCESS STANDARDS** *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.*

The applicants are proposing an access easement to serve the new parcels. The requirements in MCC 17.172.56 can be made a condition of any approval. It should be noted that the easement must also meet local Fire District standards. Under the provisions in the Marion County Address and Street Name Ordinance, the easement must be named and all properties accessing the easement must be addressed from the roadway. A list of names was submitted to the 9-1-1 Dispatch Center for review and **“Hollow Stump Ln SE”** was approved. The approved

road name must be shown on the plat and prior to the recording of the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works. This will be made a condition of approval.

8. Staff recognizes the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 2.0 acres prior to any required right-of-way dedication.
9. MCC 17.128.050 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.*

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. Also, a special dwelling setback of 100 feet should be maintained from the west property line of the most westerly parcel to further minimize the potential for conflict with farm or timber uses. Any approval can be conditioned to meet this criterion.

10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: July 10, 2018

If you have any questions please contact Patty Dorr 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.