

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.20-017**

**APPLICATION:** Application of David Sedlacek to divide a 5.64 acre parcel into two parcels containing 3.64 and 2 acres each in an AR (Acreage Residential) zone located at 5543 54th Ct SE, Salem (T8S; R2W; Section 17D, Tax lot 1200).

**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 **October 1, 2022**. 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) and shall contain the notation that the survey is the result of Partition Case 20-017. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed). **This shall be accomplished prior to issuance of any building permit(s) on the resulting parcels.**
2. The applicant is advised that a Partition Plat Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. 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.**
4. 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 an Access Permit, and under the Permit, complete remedial drainage modifications at the looped accesses.*

**Prior to issuance of building permits on the resulting parcels,**

5. The partition plat shall be recorded.

6. 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.

**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 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. 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 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.
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 1, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 2, 2020** 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 approximately 735 feet north of the intersection of 54<sup>th</sup> Ct SE and Lipscomb St SE. The property contains a dwelling and a general purpose building.
3. Surrounding uses are residential homes on small acreage lots, with one property to the northeast in farm use.
4. The applicant proposes divide a 5.64 acre parcel into two parcels containing 3.64 and 2 acres.

5. 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 an Access Permit, and under the Permit, complete remedial drainage modifications at the looped accesses.*

The south loop access approach was installed sometime between 2008 and 2010 without an Access Permit, as is required to ensure compliance with PW Engineering design standards. There is a topographical discontinuity impeding northerly drainage flow due to an elevated ornamental planting strip inside the loop combined with what appears as a culvert not meeting the minimum maintenance diameter. The south loop approach could remain, but the culvert must be upsized and drainage swale re-established inside the loop in order to facilitate positive roadside drainage conveyance.

### **ENGINEERING REQUIREMENTS**

*B. At the time of application for building permits for the developable rear parcel, an Access Permit will be required to establish the access approach to 54<sup>th</sup> Avenue. Please note that radius flare dimensions at the public road for rural residential application are to be between 10 to 20 feet. However, the north flare cannot exceed 18 feet, based on the site plan layout, in order to keep it entirely within the property frontage.*

*C. Transportation System Development and Parks Charges (SDCs) will be assessed upon application for building permits for the developable lot.*

### **ENGINEERING ADVISORIES**

*D. Per the Green Hills East subdivision plat [Vol 25 / Pg. 9], 30-foot wide multi-use equestrian/bike/ped easement runs along the west and north property lines.*

*E. There is a 7-foot wide “Reserve Strip” at the northerly terminus of the 54<sup>th</sup> Avenue public right-of-way (R/W), which is owned by Marion County, and was intended at the time of establishment on the Green Hills East subdivision plat to thwart unchecked development to the north off the end of the R/W. It is anticipated that a portion of the northern driveway north flare will encroach into the Strip. This is not envisioned as an issue necessary to be dealt with as there is no relationship between putting in the driveway to serve this property and the intent of the strip itself.*

Marion County Tax Assessor provided information related to the property taxes of the subject parcel.

All other contacted agencies either failed to comment or stated no objection to 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. 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.*
  - (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.*
8. The placement of the home is at least 200 feet from any parcel in farm or forest use. 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. This will be made a condition of approval. The criterion in MCC 17.128.050 (a) and (b) are met.

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

Joe Fennimore  
Planning Director

Date: September 16, 2020

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.