

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. 25-007**

APPLICATION: Application of James and Phyllis Utterback to partition a total of 6.25-acres into three parcels consisting of 2.0-acres, 2.0-acres, and 2.25-acres in an AR (Acreage Residential) zone located at 2882 Scottish Highland LN SE, Turner (T8S; R3W; Section 24B, Tax lot 4300 & 4301).

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 **May 1st, 2027**. 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. Per the Marion County Surveyor's Office: Parcels must be surveyed and monumented, and Per ORS 92.050, the plat must be submitted for review. Checking fees and recording fees are 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.
2. 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 provide a static water level measurement for the existing well on the enclosed form.
4. Obtain all necessary permits from Public Works Land Development Engineering and Permits.
5. The parcels shall be addressed depending on the requirements of Public Works Land Development Engineering and Permits and will be addressed prior to recording the partition plat.

Prior to issuance of building permits on the resulting parcels:

6. The applicant shall provide static water level measurements for any new or existing wells intended as the water supply for the lot on the enclosed form.
7. 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). A title report must be submitted at the time of review.

8. The applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division for the new lots. 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:

9. 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.
10. 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 the findings below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

11. 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).
12. 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.
13. 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 1st, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 2nd, 2025**, 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 parcels are situated at the end of Scottish Highland Ln, approximately 900 feet east of Scottish Highlands' intersection with Battle Creek Rd. The topography of both parcels have gently sloped landscapes containing both grassy fields and wooded areas. Both parcels were created in partition case P88-062 and have not changed their configuration since. The parcels are considered legal for land use purposes.
3. Adjacent properties consist of AR zoned parcels, all being similar in size to the subject parcels. All properties consist of acreage home sites.
4. The applicant proposes to partition a 6.25-acre parcel to create three parcels consisting of 2.0-acres, 2.0-acres, and 2.25-acres.

5. Various agencies were contacted about the proposal and given an opportunity to comment.

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

Preface- Intersection Sight Distance (ISD) measurements were performed at the Scottish Highlands Lane connection with Battle Creek Road. The result is that there is a 50% deficiency in available ISD looking north. Given that Battle Creek Road has an unposted speed defaulting to 55 mph basic rule, potential vehicular crash injuries could be exacerbated. Therefore, PW Engineering is tentatively unable to approve access via Scottish Highlands Lane serving additional homesites that would increase traffic to it. However, if the partition is ultimately approved and subsequent building permits issued such that Scottish Highlands Lane is determined to be the de facto access, then *Condition A*, below, related to access will need to be completed. Note that based upon review of Marion County Survey Record for Minor Partitioning No. 88-62, there appears to be an unimproved 20-foot wide access easement serving the subject property just north of and parallel with Derter Lane crossing the frontage parcel that has significantly better available sight distance. An even better option might be acquisition of a shared access easement over a short segment of Derter Lane versus a new public road connection.

Condition A – Prior to partition plat approval, under and Access Permit widen the proposed shared easement driveway approach to a minimum of 20 feet measured at the R/W line and for a minimum of distance of 50 feet back from the public road. Select wooden rail fencing may need to be removed to accomplish this.

Condition B – Prior to partition plat approval, notarize a Road Maintenance Agreement to be recorded concurrently with the partition plat for collective maintenance of the proposed private drive.

Requirements:

- D. Depict necessary access and utility easements on the partition plat.
- E. Provide written evidence of coordination with the Turner FD Fire Marshal as to potential requirements for fire turnaround(s) and/or turnout(s) in conjunction with the access easement to be depicted on the partition plat.

Marion County Survey commented:

- A. Parcels must be surveyed and monumented.
- B. Per ORS 92.050, plat must be submitted for review.
- C. Checking fee and recording fees required.
- D. A current or updated 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 Septic commented: "Site Evaluations for this partition were conducted under per 555-25-000974 and 555-25-000975. Records for the system serving the existing dwelling are under permit 555-04-05604. Parcels 2 and 3 will require a construction installation permit prior to site development. At this time, all septic requirements for the proposed partition have been met."

Turner Fire District commented:

- A. Fire service features including fire apparatus access and fire protection water supplies are required to comply with the 2022 Oregon Fire Code (OFC). In order to assist applicants, design professionals, and developers, fire agencies throughout Marion County have provided the 2024 Marion County Fire Code Applications Guide (MCFCAG). **Note to Applicants:** Applicants are encouraged to contact Turner Fire District for assistance with determining how best to address fire service features for this project. The following links to the OFC and the MCFCAG are provided as follows.

- a. The 2022 Oregon Fire Code contains the currently adopted fire and life safety regulations for the State of Oregon. The full text of the OFC is available through the International Code Council's website at the following link: <https://codes.iccsafe.org/content/ORFC2022P1>
- b. The 2024 Marion County Fire Code Applications Guide contains guidelines established by the fire agencies throughout Marion County to assist designers and applicants with how OFC requirements are to be applied to their projects.
 - i. The following link to the 2024 MCFCAG is provided on the Turner Fire District website:
 - ii. Click the "Public Information" link at the bottom of the main page.
 - iii. Click the "Rural Access Standards" link. This opens the MCFCAG document which is located at the following link:
[https://www.turnerfire.com/content/files/M_C%20App%20Guide%207-2024\(3\).pdf](https://www.turnerfire.com/content/files/M_C%20App%20Guide%207-2024(3).pdf)

NOTE: It is noted that Scottish Highland Ln. SE currently serves two residential properties, 2882 and 2812. With the addition of two additional parcels which will be served by Scottish Highland Ln. SE, OFC 503.1.1 Exception 1.3 no longer applies to that portion of roadway where it serves the first two parcels (2812 and Parcel 2). This portion must now be in compliance with OFC 503.2.1 (20 feet wide, 13 feet 6 inches high). Where Scottish Highland Ln. SE serves Parcel 3 and 2882 individually, it is allowed to serve each parcel by the reduced width (12 feet) roadways within their individual 20 foot wide easements.

- B. Address identification signs shall be provided in accordance with OFC 505. Specifically, at the entrance from Battle Creek Rd. SE to Scottish Highland Ln. SE, a monument or post shall have address signs which display all addresses served by this roadway. In addition, each individual address shall be posted at the driveway serving each individual property.
- C. Where security gates are to be installed, they shall be in accordance with OFC 503.6. Key boxes shall be required where gates are installed and shall be in accordance with OFC 506 and of a design approved by Turner Fire District.
- D. Regarding parcels 2 and 3, Turner Fire District reserves judgement on fire protection water supplies which are based on OFC 507, OFC Appendix B, and NFPA 1142 until such time as structures are permitted to be built.

Marion County Tax Assessor Office provided tax information on the subject parcel.

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

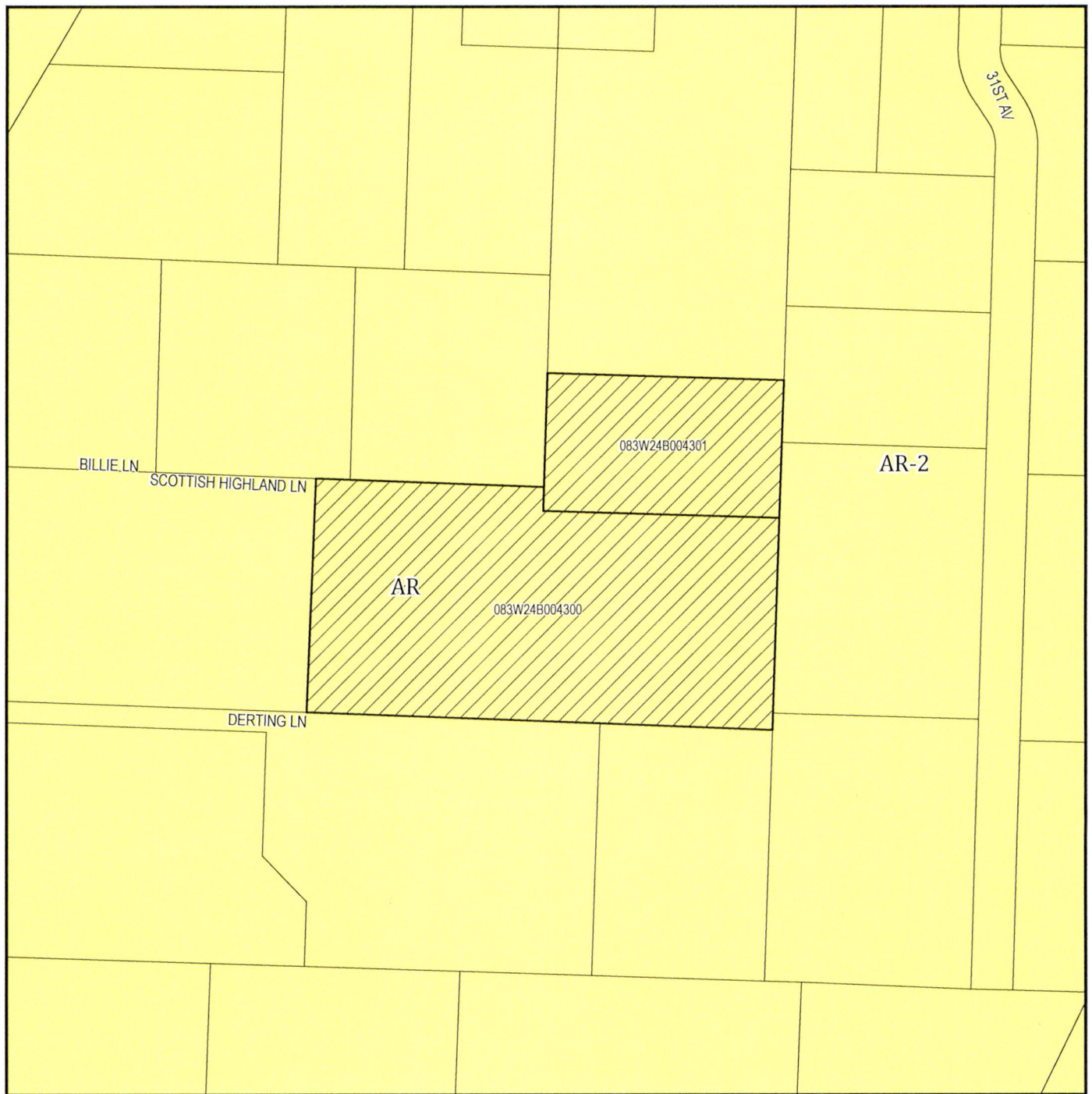
6. Chapter 17.181 MCC establishes provisions for partitioning property in an SGO zone. In the SGO zone, creating a parcel less than five acres in size requires the applicants to submit a "Hydrology Review" meeting the provisions listed in MCC 17.181. The review indicates that there is a sustainable long-term supply of ground water for the proposed development. 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.
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. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: April 16th, 2025

If you have any questions regarding this decision contact Gillian Peden 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.




ZONING MAP

Input Taxlot(s): 083W24B004300, 083W24B004301

Owner Name: UTTERBACK FAM TR & UTTERBACK,
JAMES EDWARD TRE &
UTTERBACK, PHYLLIS MELE TRE
Situs Address: 2882 SCOTTISH HIGHLAND LN SE
City/State/Zip: SALEM, OR, 97317
Land Use Zone: AR
School District: SALEM-KEIZER
Fire District: TURNER

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 204 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.