

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. 21-027**

**APPLICATION:** Application of Paul J Hawks Trust & Paul J Hawks Trustee to divide a 0.41 acre parcel into two parcels containing 9,901 square feet and 8,107 square feet each in a Single Family Residential (RS) zone located at 4240 Macleay Road SE, Salem. (T7S, R2W, Section 31DB, Tax Lot 5500).

**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 partitioning plat is recorded by **February 3, 2024**. 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 applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5038) and shall contain the notation that the survey is the result of Partition Case 21-027. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
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. Checking fee and recording fees required.
3. Parcels ten acres and less must be surveyed.
4. Marion County 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, provide a notarized Non-Remonstrance Agreement for concurrent recording with the plat agreeing to future financial participation in a speculative aggregate agency urban frontage improvement project on Macleay Road.

**Condition B** – Prior to plat approval, acquire an Access Permit, and under the Permit pave the parent dwelling driveway approach with Hot Mix Asphalt.

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

5. After the final partition plat has been recorded, no alteration of property lines shall be permitted without first obtaining approval from by 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 agencies mentioned in Finding #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. 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.
7. The applicants should contact Marion County Fire District #1 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. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.
8. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements (listed in Finding #5 below) that may be required.

**APPEAL PROCEDURE:** The Marion County 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 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 120 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

**February 3, 2022.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 4, 2022** unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which the decision was based are noted below.

1. The properties are designated Single Family Residential in the Salem Area Comprehensive Plan and zoned RS (Single Family Residential) by Marion County. The purpose of this designation and the corresponding RS (Single Family Residential) zone is to provide areas for residential development on individual lots at urban densities.
2. The property is located on the south side of Macleay Rd SE, approximately 140 feet east of the intersection of Macleay Rd SE and Elma Ave SE. The property contains a dwelling, and a detached garage. The property is described as Lot 2, Block 2 of the Amended Plat of Hager's Addition subdivision. The property is considered legal for the purposes of land use.
3. Properties in all directions are zoned RS (Single Family Residential) and developed with single-family uses.
4. The applicant proposes to divide a roughly 0.33 acre parcel into two parcels of 9,901 square feet, and 8,103 square feet.
5. Marion County Land Development and Engineering provided the following conditions, requirements, and advisory comments:

#### **ENGINEERING CONDITIONS**

*Condition A – Prior to plat approval, provide a notarized Non-Remonstrance Agreement for concurrent recording with the plat agreeing to future financial participation in a speculative aggregate agency urban frontage improvement project on Macleay Road.*

Nexus is due to the anticipated increase in vehicular and pedestrian traffic brought about by the addition of a buildable lot, and in accordance with MCC 16.33.160 and 16.33.320. Anticipated improvements include pavement widening, curb/gutter, sidewalk, landscape strip and existing utility adjustments. Please contact John Rasmussen in the Land Development section to coordinate.

*Condition B – Prior to plat approval, acquire an Access Permit, and under the Permit pave the parent dwelling driveway approach with Hot Mix Asphalt.*

## **ENGINEERING REQUIREMENTS**

- D. At the time of application for building permits, an Access Permit will be required for the developable lot. It will be required to pave the approach with Hot Mix Asphalt.
- E. In the event the parent dwelling is demolished prior to or in conjunction with development on the buildable lot, then any individual access shall be permanently closed and a single paved access approach established to a shared access easement.
- F. Transportation System Development & Parks Charges will be assessed at the time of application for building permits on the developable lot.
- G. Show any necessary access and utility easements on the partition plat.
- H. Utility work in the public right-of-way requires separate Utility Permitting from MCPW Engineering.

## **ENGINEERING ADVISORIES**

- I. Sanitary sewer service is provided by City of Salem.
- J. Potable water is provided by Suburban East Salem Water District.

City of Salem Public Works commented that the subject property is located within the East Salem Service District. A City of Salem sewer permit is required for future service to proposed Parcel 2. Pursuant to City Council Policy X-4, an annexation agreement must be filed with the City of Salem prior to connection to sewer.

Marion County Assessor's Office provided comments related to taxes on the subject property.

Marion County Building Department commented that there are no building inspection issues with proposed new property line and typical note for 5ft side yard setback. Any proposed structures and/or utilities on private property may require permits.

Marion County Surveyor's Office provided the following comments:

- A. Parcels ten acres and less must be surveyed.
- 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.

6. In order to partition land in an RS (Single Family Residential) zone, the standards and criteria in Chapter 16.02.120 of the Marion County Code (MCC) apply:

- A. *Lot Area. The minimum lot area for a single-family dwelling in a subdivision approved after the effective date of the ordinance codified in this title, is 4,000 square feet when located within the Salem/Keizer area urban growth boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)*
- B. *Lot Dimensions. Except as provided in MCC 16.26.800 for planned developments, the width of a lot shall be at least 60 feet; provided, that within the Salem/Keizer urban growth boundary the width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet.*

The applicant proposes to divide an approximately 0.33 acre parcel into two lots. According to the application, the first lot will contain 9,901 square feet and the second lot will contain 8,107 square feet. The applicant submitted a preliminary plat completed by Cascadia Planning & Development Services showing that Parcel 1 will be 9,901 square feet with dimensions of 180' by 54' and Parcel 2 and 3 will 8,107 square feet with dimensions of 180' by 45'. The exact square footage will be determined by the final plat. Moreover, it is clear that all lots can meet the square footage and dimensional requirements. Additionally, all lots in the proposed partition exceed the minimum lot width of 40 feet and lot depth of 70 feet required within the Salem/Keizer urban growth boundary. Therefore, the proposal meets the criteria 6(A) and 6(B) for dividing land in the RS zone.

7. MCC 16.33.680 ACCESS STANDARDS. *All lots must have a minimum 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 and a driveway permit has been obtained shall be provided prior to the issuance of building permits on the parcels served by the access easement. The easement shall meet the following standards:*
- A. *Have a minimum easement width of 25 feet;*
  - B. *Have a maximum grade of 12 percent;*
  - C. *Be improved with a paved surface with a minimum width of 20 feet;*
  - D. *Provide adequate sight-distance at intersections with public roadways;*
  - E. *Be provided with a road name sign at the public roadway as identification for emergency vehicles in accordance with Chapter 11.55 MCC, Naming and Addressing Roads/Property.*

All proposed lots will meet the minimum 20 foot frontage requirement. The parcel is relatively flat and therefore the maximum grade is not expected to exceed 12 percent. The applicant is advised that an access permit will be required upon development of the vacant parcel and that the parent parcels access will be improved with a paved driveway approach. See Findings #5 for more information regarding approach and access. The access standards under MCC 16.33.680 are therefore met.

8. Based on the above findings, the proposed partitioning complies with the criteria for a partitioning in the RS zone and is, therefore **APPROVED**, subject to conditions.

Brandon Reich  
Director-Planning Division

Date: January 19, 2022

If you have any questions please contact Lindsey King 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.