

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.21-026**

APPLICATION: Application of Jaime Tenorio to divide a 0.95 acre parcel into two parcels containing 0.52 acres and 0.43 acres each in an Urban Development (UD) zone located at 4815 Auburn Road NE, Salem. (T7W, R2W, Section 29BC, Tax Lot 300).

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 **January 7, 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) 588-5036). 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 Plant Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use final plat for recordation until the following conditions have been satisfied:

***Condition A** – On the partition plat, dedicate a 30-foot right-of-way (R/W) half-width for public road purposes along the Auburn Road frontage to meet the City's Collector standard, and an adjacent 4-foot wide PUE.*

Nexus is the addition of a developable homesite, and the need to provide adequate space for future bicycle and pedestrian safety improvements, as well as utilities, as generally authorized under MCC 13.33.260.

***Condition B** – On the partition plat, dedicate a contiguous 60-foot wide public R/W for the future easterly extension of Sienna Drive.*

Nexus is the addition of a developable homesite, desire to provide Local road direct access to the developable parcel, plus space for infrastructure serving additional future development on as well as in the vicinity of the subject property. Applicable codes are MCC 16.33.190 (Connectivity), 16.33.200 (Dead End Streets) and 16.33.260 (R/W dedication). Note: Dedication of the prescribed R/W extension may necessitate reconfiguration of the proposed partitioning plan.

Condition C – Prior to plat approval, notarize a Non-Remonstrance Agreement concurrent recording with the plat for future financial participation assigned to the proposed south parcel toward the construction of urban frontage improvements along the subject property Auburn Road frontage to the City of Salem Collector ‘A’ standard in the event an agency aggregate Capital Improvement Project is conducted.

Nexus is due to the anticipated increase in vehicular and pedestrian traffic brought about by the addition of a buildable homesite, and in general accordance with MCC 16.33.160 and 16.33.320. Anticipated improvements include pavement widening, curb/gutter, sidewalk, access apron, closed system drainage and landscape strip.

Condition D – Prior plat approval, notarize a Non-Remonstrance Agreement for concurrent recording with the plat agreeing that prior to issuance of dwelling permits on the developable parcel, a Sienna Drive full-width road extension improvement to the City of Salem Collector ‘A’ standard shall be designed and permitted, and that prior to final building inspection on said parcel, it shall be satisfactorily constructed. The improvement is anticipated to consist of a 34-foot wide pavement section, curb/gutter, access apron, sidewalks, landscape strips and public utility extensions.

Nexus is due to the anticipated increase in vehicular and pedestrian traffic brought about by the proposed land division. Reference is to MCC 13.33.320.

4. 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.

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 below 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 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 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 \$250) 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

January 7, 2022. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **January 8, 2022** 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 Developing Residential in the Salem Area Comprehensive Plan. The major purpose of this designation and the corresponding Urban Development (UD) zone is to provide areas for future residential development.
2. The property is located approximately 330 feet east of the intersection of Auburn Rd and Greencrest St. The property contains a dwelling and two accessory structures. The parcel was the subject of partition 92-45 and is therefore considered legal for land use purposes.
3. Surrounding uses are residential in all directions, with single family zoning to the west and south, and UD zoning to the east and north.
4. The applicant proposes to divide a 0.95 acre parcel into two parcels containing 0.52 acres and 0.43 acres each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITIONS

Condition A – *On the partition plat, dedicate a 30-foot right-of-way (R/W) half-width for public road purposes along the Auburn Road frontage to meet the City’s Collector standard, and an adjacent 4-foot wide PUE.*

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Condition D – *Prior plat approval, notarize a Non-Remonstrance Agreement for concurrent recording with the plat agreeing that prior to issuance of dwelling permits on the developable parcel, a Sienna Drive full-width road extension improvement to the City of Salem Collector ‘A’ standard shall be designed and permitted, and that prior to final building inspection on said parcel, it shall be satisfactorily constructed. The improvement is anticipated to consist of a 34-foot wide pavement section, curb/gutter, access apron, sidewalks, landscape strips and public utility extensions.*

Nexus is due to the anticipated increase in vehicular and pedestrian traffic brought about by the proposed land division. Reference is to MCC 13.33.320.

ENGINEERING REQUIREMENTS

- E. The following numbered sub-requirements pertain to access:
- 1) At the time of application for building permits, an Access Permit from MCPW Engineering will be required for the proposed developable parcel.
 - 2) Access to that parcel shall be derived from a Sienna Drive extension.
 - 3) A 1-foot wide 'Reserve Strip' was established at the east end of Sienna Drive as part of the Sienna Estates subdivision [Vol 34 / Pg 50]. MCPW will require the Applicant to provide evidence of either a city-granted access easement across the Reserve Strip or dedication as public R/W thereof by Salem City Council, for being situated with city limits. Point of contact is City Development Services who can be reached at (503) 588-6211.
 - 4) Evidence of a permit or waiver thereof from City Development Services to establish a physical connection to Sienna Drive will also be required by MCPW Engineering for a Sienna Drive extension.
 - 5) If the parent dwelling were to be demolished or destroyed and reconstructed, direct access to Auburn Road shall be closed and all access derived from a Sienna Drive extension.
- F. Transportation System Development & Parks Charges will be assessed at the time of application for building permits.
- G. Show any necessary access and utility easements on the partition plat.
- H. Utility service lateral extension work within county-controlled public R/W requires permits from MCPW Engineering.

ENGINEERING ADVISORIES

- I. Sanitary sewer and potable water service are provided by City of Salem.
- J. City of Salem is the Road Authority over Auburn Road and the existing segment of Sienna Drive with regard to working in those streets.
- K. Any future partitioning or subdividing shall also derive access from a Sienna Drive extension. No direct shared access to Auburn Road will be allowed since Auburn Road is of a higher functional class than Sienna Drive (Collector vs. Local street).

Salem-Keizer Public Schools provided comments related to the additional students that may be added to the district.

Marion County Building Inspection commented:

“There do not appear to be any Building Inspection issues, based on the information provided. Permits are required for any future structures and/or utilities on private property.”

Marion County Septic Inspection commented:

“Sewer availability per OAR 340-071-0160(4)(f) will need to be confirmed for both lots . If sewer is available, septic permits cannot be issued. If sewer is unavailable, a site evaluation is required for partitioning and a construction/installation permit is required for development of the new lot. If the buildings are currently connected to a septic system, and existing system evaluation is required to show the system and its location to demonstrate it can meet a 10' setback to the proposed property line.”

Marion County Fire Dept. No. 1 provided comments related to access, fire flows, and the Fire Code and it related to residential development. A copy of these comments is available in the file at Public Works, Planning Office.

Marion County Surveyor commented:

1. Parcels ten acres and less must be surveyed.
2. Per ORS 92.050, plat must be submitted for review.
3. Checking fee and recording fees required.
4. 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.

City of Salem provided comments related to access, water service and annexation. Parcel two will be required to annex into the City to gain water service and it will also need to construct a roadway extension and dedicate right of way for Sienna Dr and Auburn Rd, the full findings can be found in the case file.

All other commenting agencies stated no object to the proposal.

6. In order to partition land in UD zone the standards and criteria in Chapter 16.1.300 of the Marion County Code (MCC) apply:

B. The following regulations shall apply when property line adjustments and partitioning of land within the UD zone as regulated by Chapter 16.33 MCC:

1. Existing Lots with Dwellings. The dwelling and immediately surrounding area may be separated from the remaining property provided:

a. The location of lot lines shall not significantly reduce feasible options for the future location of urban roads or services, or preclude basic development options on the property or adjacent properties. If the applicable comprehensive plan designates the property for single-family residential uses, a development plan may be required which demonstrates that the proposed division will not preclude future subdivision achieving the median density proposed in the Comprehensive Plan.

The dwelling, associated structures and the immediate area around it are proposed to be separated. This leaves the largest piece of vacant land leftover to the north with the ability to be redeveloped at County or City densities. With a connection to Sienna Dr, this division meets the criteria.

b. Any additional street right-of-way required by adopted standards is dedicated along the lot's street frontage.

Marion County LDEP has commented that additional street right of way is adopted; this will be made a condition of approval.

c. If the dwelling is within 300 feet of a sewer line capable of serving the dwelling, the dwelling shall be connected to the sewer.

No new dwelling is proposed at this time. It is not known at this moment if a new dwelling placed on the new parcel would be within 300 feet of a sewer line, but if it is, connection shall be required.

d. Street and drainage improvements applicable to any street abutting the dwelling lot shall be required at the time the remnant parcel is developed through an improvement agreement.

Marion County LDEP has commented and made conditions of approval related to street and drainage improvements.

2. The minimum lot size for partitionings and property line adjustments shall be 6,000 square feet for the dwelling lot. If the dwelling lot is proposed to be larger than 15,000 square feet, a redevelopment plan shall be required demonstrating that the proposed dwelling lot meets subsection (B)(1)(a) of this section. The location of lot lines on the dwelling lot shall conform to the yard requirements of the RS zone.

The dwelling lot is currently proposed to be approximately 22,000 square feet. With a new access from Sienna Dr, this lot can be redeveloped into a higher density neighborhood at time of annexation.

7. Based on the above findings, the request complies with the applicable criteria and is, therefore **APPROVED**.

Brandon Reich
Planning Director

Date: December 23, 2021

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.