

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. 23-005**

APPLICATION: Application of the Paul J Hawks Trust to partition a 0.41-acre parcel into two parcels consisting of 0.23 acres and 0.18 acres in an RS (Single Family Residential) zone located at 4335 Hager St SE, Salem (T7S; R2W; Section 31DB; Tax lot 600).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Partition, subject to certain conditions.

EXPIRATION DATE: This approval is valid only when the final partitioning plat is recorded by **April 29, 2025 (two years)**, unless an extension is granted. The effective period may be extended for an additional year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposed use is for land use purposes only. Due to other requirements, such as well requirements, septic requirements, and drain field replacement areas, this parcel may not be able to support the proposed use. To ensure 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 applicants shall submit a final partition plat to the Marion County Surveyor's Office. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed). **This shall be accomplished prior to the issuance of any building permit(s) on the resulting parcels.**
2. Per the Marion County Surveyor's Office, the parcels must be surveyed and monumented. Per ORS 92.050, the plat must be submitted for review, a checking fee and recording fee will be 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.
3. Per Marion County LDEP, the following requirements will apply:
 - A) **Prior to plat approval**, obtain an Access Permit, and under the permit, pave a hot mix asphalt driveway apron connection to Hager Street serving the existing parent dwelling.
 - B) At the time of application for building permits, on the developable parcel an Access Permit will be required. The driveway approach will need to be paved with hot mix asphalt and a culvert installed.
 - C) Transportation System Development Charges and parks fees will be assessed at the time of application for building permits.
 - D) Permits from MCPW Engineering are required for utility service extensions in the Hager Street public right-of-way.
4. The proposed "Parcel 1" (vacant) shall be addressed **4325 Hager Street SE**. The proposed "Parcel 2" (containing the existing dwelling) shall remain addressed **4335 Hager Street SE**. Addresses will be finalized at the time that building permit applications are reviewed and may change if alterations are made to the property or nearby properties.

5. Prior to the issuance of building permits on the resultant parcels, the applicant shall show evidence that they have met the requirements of the sewer and water districts, which may include annexation agreements filed with the City of Salem as specified by the City of Salem Public Works comments.

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

6. After the final partition plat 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 another 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the 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.

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 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 in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **May 1, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 2, 2023**, unless further consideration is requested.

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

1. The subject property is located within the City of Salem Urban Growth Boundary (UGB). The City of Salem Comprehensive Plan designates the property as Single-Family Residential. Marion County correspondingly has zoned the property as Single-Family Residential (RS). The intent of this zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located approximately 200 feet east of the intersection Hager Street SE & Eldin Avenue SE; it is also located approximately one-half mile north of Highway 22. The property contains approximately 0.41 acres. All surrounding properties are also zoned Single-Family Residential, and the area consists of low-density urban residential development.
3. The parcel is identified as Lot 11, Block 3, of Hager's Second Addition. The Hager's Second Addition subdivision was recorded in 1946, prior to modern land use regulations. Therefore, the parcel is considered legal for the purposes of land use per Marion County Code 16.49.152.
4. The applicant proposes to partition the parcel into two parcels and then use these parcels for one detached single-family dwelling per parcel. The proposed land use would be permitted outright by the Single-Family Residential (RS) zone per MCC 16.02.010.

5. The property falls within the Suburban East Salem Water District; the water district provided no comments. The City of Salem Public Works Department confirmed that it will be served by East Salem Sewer Service District and the Suburban East Salem Water District. The City of Salem GIS data shows that a sewer line owned by the city runs along Hager Street in front of the properties.

6. Marion County LDEP Division commented:

ENGINEERING CONDITION

A - Prior to plat approval, obtain an Access Permit, and under the Permit, pave a hot mix asphalt driveway apron connection to Hager Street serving the existing parent dwelling.

ENGINEERING ADVISORY

B – At the time of application for building permits on the developable parcel an Access Permit will be required. The driveway approach will need to be paved with hot mix asphalt and a culvert installed.

C – Transportation System Development & Charges and parks fee will be assessed at the time of application for building permits

D – Permits from MCPW Engineering are required for utility service extensions in the Hager Street public right-of-way.

7. Marion County Surveyor's Office commented:

Parcels must be surveyed and monumented. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fees required. 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.

8. Marion County Tax Assessor's Office provided information regarding property taxes on the subject properties. The full comments are available in the case file.

9. Salem-Keizer Public Schools provided information regarding school capacity and infrastructure. The full comments are available in the case file.

10. City of Salem, Public Works Department commented:

The subject property is located within the East Salem Sewer Service District and the Suburban East Salem Water District. Any future connections to this sewer district will require an annexation agreement to be filed with the City of Salem, where one has not already been done so.

11. All other contacted agencies either failed to comment or stated they had no comments on the proposal.

12. Partitions within an Urban Growth Boundary (UGB) have requirements set forth in Marion County Code 16.33. Other requirements, such as the minimum lot size, are set forth in the Single-Family Residential chapter 16.02. Additional general requirements can be found in chapters 16.26 through 16.34.

13. The partition proposal was reviewed following the standards set forth in 16.02:

16.02.120 Lot area and dimensions.

- 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.*

The property is located within the Salem/Keizer area urban growth boundary. The proposed parcels are 10,001 and 7,893 square feet. Both parcels will be above the minimum lot size of 4,000 square feet. The criterion is met.

- 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 property is located within the Salem/Keizer urban growth boundary. The proposed parcels have a width of 79.97 feet and 99.98 feet. Both parcels will be above the minimum lot width of 40 feet. The proposed parcels will have a depth of 100.01 feet and 180.05 feet (or 80.05 feet when not counting the “flagpole”). Both parcels will be above the minimum lot depth of 70 feet. The criterion is met.

14. Per MCC 16.27.020, “no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this title.”

The proposed parcel which will contain the existing structures was reviewed for compliance with the requirement listed above. The proposal should comply with setbacks and other requirements of the zoning code. With the proposed property lines, an existing accessory structure is proposed to be removed where it crosses a proposed property line. The existing dwelling appears to maintain the required front yard setback, rear yard setback, and side yard setbacks as required in 16.02.130 through 16.02.150 and 16.28. In addition, the existing land use still meets the requirements of the RS zone. This criterion is met.

15. In addition, MCC 16.33 contains the following requirements:

16.33.680 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.

The proposed parcels both have at least 20 feet of frontage of the adjacent public right-of-way (Hager Street SE). Therefore, no access easement is necessary, and the criterion is met.

16. Based on the above findings, it has been determined that the proposed partition satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: April 14, 2023

If you have any questions regarding this decision contact Daniel Jansen 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.