

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. 22-007**

**APPLICATION:** Application of Kacy Ramirez on behalf of KMS Enterprises LLC to partition an 0.41-acre parcel into 2 parcels consisting of 0.20 acres and 0.21 acres in a Single Family Residential (RS) zone located at 4180 Macleay Road SE, Salem. (T7S, R2W, Section 31DB, Tax Lot 5800).

**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 **October 11, 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 Plat Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. 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.

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

4. 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:

5. 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).

**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

**October 11, 2022,** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 12, 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 Single Family in the Salem Area Comprehensive Plan. The major purpose of this designation and the corresponding Single Family zone is to provide areas for future residential development.
2. The property is located at the southwest corner of Macleay Rd SE and Elma Ave SE. The property contains a dwelling and an accessory structure. It is platted as part of the Hager's Addition Amended Plat and is therefore considered legal for land use purposes.
3. Surrounding uses are residential in every direction, with all adjacent parcels being developed with single family homes. All adjacent property is zoned RS.
4. The applicant proposes to divide a 0.41-acre parcel into 2 parcels consisting of 0.20 acres and 0.21 acres.
5. Marion County Survey 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.

Marion County Tax Assessor provided comments related to the subject properties property taxes.

Marion County Building Inspection commented "If the proposed property line is placed less than 3 feet from either structure, then additional fire resistive construction may be required to the structure, to which a building permit would be required. If the ADU is unpermitted, permits to legally establish the ADU would also be required."

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

6. In order to partition land in RS zone the standards and criteria in Chapter 16.12.120 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.*

Both lots are proposed to be approximately 8700 – 9100 square feet and meet the criteria in A. The depth of both lots is approximately 100 feet or greater and the widths are each 75 feet or greater. The criterion is met.

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.*

No access easement is proposed or required and both properties will far exceed the 20' of frontage minimum. The criterion is met.

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

Brandon Reich  
Planning Director/Zoning Administrator

Date: September 26, 2022

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.