

**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.21-016**

**APPLICATION:** Application of Curt and Rhonda Cribbins to partition a 2 acre parcel into three parcels containing 63,200 square feet, 9,700 square feet, and 7,100 square feet each in an UT-5 (Urban Transition – 5 Acre Density) zone located at 12600 Whiskey Hill Road NE, Hubbard. (T4S; R1W; Section 34CB; Tax Lot 4600).

**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 **September 2, 2023**. 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) and shall contain the notation that the survey is the result of Partition Case 21-016. 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. 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.
3. The parcels shall be surveyed.
4. 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:

**ENGINEERING CONDITION**

**Condition A** – *On the partition plat, dedicate the following public right-of-way along the subject property public right-of-way frontages:*

- 30-foot half-width, Whiskey Hill Road, City Minor Arterial std.
  - 25-foot half-width, public alley (Oak St Ext), City Local street std.
  - 20-foot property corner radius
5. 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:

6. 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:

7. 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).
8. 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 \$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

**September 2, 2021.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 3, 2021** 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 Residential in the Hubbard Comprehensive Plan. The major purpose of this designation and the corresponding Urban Transition zone is to provide areas for future residential development.
2. The property is located directly south of the intersection of Oak St and Whiskey Hill Rd NE. The property contains three stick built dwellings and two accessory structures. The parcel was the subject of CU08-47 and is therefore considered legal for land use purposes.
3. Surrounding uses are residential in all directions and consist of small parcels developed with dwellings.
4. The applicant proposes to divide a 2 acre parcel into three parcels containing 63,200 square feet, 9,700 square feet, and 7,100 square feet each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

**ENGINEERING CONDITION**

*Condition A – On the partition plat, dedicate the following public right-of-way along the subject property public right-of-way frontages:*

- 30-foot half-width, Whiskey Hill Road, City Minor Arterial std.
- 25-foot half-width, public alley (Oak St Ext), City Local street std.
- 20-foot property corner radius

Nexus is to meet R/W dedication requirement for partitions in accordance with Marion County Code (MCC) Sections 16.33.220 and 16.33.260 in order to provide accommodation for future public road improvements to serve the development and traveling public, and width for public utilities.

### **ENGINEERING REQUIREMENT**

B. Show any necessary access and utility easements on the partition plat.

### **ENGINEERING ADVISORIES**

- C. The side alley is currently being used for access to the proposed south parcel. The alley is a Local Access Road, not maintained by Marion County.
- D. Existing pole barn #1 (as denoted on the land use application site plan), may encroach into the existing public alley and/or required public R/W dedication for that. A Boundary Survey that was done for adjacent property to the west, per Marion County records MCSR 35393, may also depict it encroaching (labeled as garage).

#### Marion County Surveyors Office 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 Hubbard Planning commented:

1. UGA: The subject property is located within the City of Hubbard Urban Growth Area, bound by the Urban Growth Boundary (UGB), but outside of the City of Hubbard city limits. Properties located in the UGA are eligible to be annexed into the city limits, subject to the City's adopted annexation and zone change criteria, and in consultation with Marion County. As no annexation or zone change is proposed at this time, the City defers to Marion County zoning dimensional standards review.
2. OAK STREET ROW: The incorporated Oak Street ROW is currently 60 ft. wide north of Whiskey Hill Rd NE. The existing ROW south of Whiskey Hill Rd NE, abutting the subject property, is 20ft wide. It is labeled as an "alley" on the assessor map, and as "Public Road NE #NCR 3505" on the County Surveyor GIS layers. State and local urbanization policies generally anticipate that properties in the UGA will be annexed within a 20-year timeline. The City recommends/requests additional right-of-way width dedication from the subject property on this public road for the continuation of the Oak Street alignment south of Whiskey Hill Road NE, as a condition of the proposed partition. We understand that the authority to do so is based upon the County's adopted street classification standards. We do not know the official classification of this public road, and defer to Marion County Public Works on this issue. John Rasmussen is Cc'd.
3. EASEMENTS: Upon future annexation, the City would review easements and utilities on the subject property (ies). It is not clear what easements are existing/proposed for septic drain fields, well(s), and access. It is the City's policy not to create land-locked parcels without legal access to the nearby public right-of-way, and would encourage the same policy here.
4. UTILITIES: Upon future annexation, the City would require the subject properties to connect to City water and sewer services. It is the City's policy not to extend connections beyond city limits. No connections are proposed, required, or permitted at this time.

#### Marion County Septic commented:

- Marion County has a Certificate of Satisfactory Completion for three septic systems at the property, located at 12670 Whiskey Hill Rd (aka existing home #2), 12680 Whiskey Hill Rd (aka existing home #3), and 12670

Whiskey Hill Rd (aka existing home #1). Additionally, we have a Certificate of Satisfactory Completion for a pole barn with plumbing and a septic tank connected to the system originally permitted for existing home #1.

- Septic systems are proposed to cross property lines; they must meet the requirements of OAR 340-071-0130(11) and have either same owner, or different owner easements recorded during the partitioning process.
- A record review with a site plan showing an area physically large enough for a repair is required for each lot. If any proposed repair area is located on another lot this area must be included in the easement(s) described above.

Please contact me if you have any questions or concerns regarding this matter. I can be reached at 503-566-3990.

Sincerely,  
Robert Goodwin, REHS  
Marion County Onsite Wastewater Specialist

Marion County Building Department commented:

If new property lines are created, based on the information submitted by the applicants, existing homes and other structures must be 3 feet or more from the new property lines, or additional fire resistive construction may be needed for the existing structures, to which building permits would be required.

Marion County Tax Assessor provides information on the subject properties taxes which are paid.

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

6. In order to partition land in UT zone the standards and criteria in Chapter 16.13.310 of the Marion County Code (MCC) apply:

*A. A series partition, subdivision, residential planned development or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes, is not permitted in the UT zone.*

The proposal is to divide the parcel into 3 lots, this criterion is met.

*B. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:*

*1. Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A no remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

This has been made a condition of approval, this criterion is met.

*2. The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*

*3. When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible, the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*

All lots are configured in such a way to fit the home and septic systems. This criterion is met.

4. *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre, a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan.*

*The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*

The lots being created are not larger than one acre except for parcel #1 which may have to be to include access and drain field location. If this lot is larger than one acre, the orientation will still allow for homes to be developed subject to annexation. This criterion is met.

5. *New lots shall have no dimension less than 80 feet.*

According to the site plan this standard can be met. This criterion is met.

6. *When a lot located in a residential plan designation and occupied by a nonresidential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*

The undeveloped land is largely drain field areas and can be removed to facilitate future development upon annexation. This criterion is met.

7. *The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone (i.e., one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added, five acres.*

This parcel has a residential plan designation therefore allowing the homes to be divided as the 5 acre minimum is a dwelling density. Each parcel will have a dwelling. This criterion is met.

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

Joe Fennimore  
Planning Director

Date: August 18, 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.