

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. 22-013**

APPLICATION: Application of Robert Southard to partition a 3.16-acre parcel into two parcels consisting of 1.646 acres and 1.504 acres in an Urban Transition – 1.5 Acres Minimum (UT-1.5) zone located at 17762 Dunn Road NE, Hubbard. (T4S, R1W, Section 34CB, Tax Lot 4300).

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 1, 2025**. 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). 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.
2. The partition plat shall be recorded.
3. Prior to plat approval, submit a re-development plan showing that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan.
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:

***Condition A** – On the partition plat dedicate a 30-foot wide right-of-way (R/W) half-width on the Dunn Road frontage and a 60-foot wide R/W through the bisecting alley (NCR #3505) frontage.*

Dedication is authorized under MCC 16.33.260. Dedications shall be to the public for roadway purposes.

***Condition B** – On the partition plat dedicate a minimum 25-foot wide access and utility easement centered on the south driveway commencing from the west property line to expanded NCR #3505.*

***Condition C** – Prior to partition plat approval, record a Non-Remonstrance Agreement to permanently close the Dunn Road secondary south access approach at the request of the appropriate governing agency should alternate direct public access all-weather driving surface from NCR #3505 to Whiskey Hill Road be made physically available in the future to serve the proposed east parcel.*

Please contact John Rasmussen in MCPW Engineering with regard to document preparation.

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.
6. The access standards contained in MCC 16.33.680 must be met.

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

7. 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 #7 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. 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).
9. 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.
10. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**

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 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 **February 2, 2023,** 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 Residential in the Hubbard Area Comprehensive Plan. The major purpose of this designation and the corresponding Urban Transition 1.5-acre minimum zone is to provide areas for future residential development.
2. The property is located on the east side of Dunn Rd NE, approximately 420 feet south of its intersection with Whiskey Hill Rd NE. The property contains a dwelling and two accessory structures. The property was platted as part of the Trullinger Tracts Subdivision on June 19th, 1929, in Book 6, Page 299 and is therefore considered legal for land use purposes.

3. Surrounding uses are residential in all directions. All adjacent parcels are zoned UT and are developed with single family homes.
4. The applicant proposes to partition a 3.16-acre parcel into two parcels consisting of 1.646 acres and 1.504 acres.
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 wide right-of-way (R/W) half-width on the Dunn Road frontage and a 60-foot wide R/W through the bisecting alley (NCR #3505) frontage.*

Dedication is authorized under MCC 16.33.260. Dedications shall be to the public for roadway purposes.

Condition B – *On the partition plat dedicate a minimum 25-foot wide access and utility easement centered on the south driveway commencing from the west property line to expanded NCR #3505.*

Condition C – *Prior to partition plat approval, record a Non-Remonstrance Agreement to permanently close the Dunn Road secondary south access approach at the request of the appropriate governing agency should alternate direct public access all-weather driving surface from NCR #3505 to Whiskey Hill Road be made physically available in the future to serve the proposed east parcel.*

Please contact John Rasmussen in MCPW Engineering with regard to document preparation.

ENGINEERING REQUIREMENTS

- D. An Access Permit(s) will be required in conjunction with application for building permits on the proposed east parcel. There may be two Permits required; one from Dunn Road for the change-in-use to residential and one from NCR #3505, which the existing driveway currently bisects.
- E. Transportation System Development and Parks Charges will be assessed upon application for building permits.
- F. Utility service extensions in the public R/W require MCPW Engineering permitting.

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.

Other comments specific to this Planning Action from Survey: Do not place the new parcel line in the center of the public alley. Place it at the east side of the public alley. If vacated, the alley would most likely inure to the property to the west. The west property and alley were created by the Trullinger Tracts subdivision. The east property was not.

Marion County Septic Department commented:

- A site evaluation is required for the new, undeveloped lot.
- An existing system evaluation is required for the existing dwelling. A site plan showing there is a large enough area for a replacement system is required with this application.

Marion County Building Department commented:

“No Building Inspection issues/concerns. Permits are required for any new construction and/or utilities on private property.”

Marion County Tax Assessor provided information regarding the subject properties property taxes.

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

6. In order to partition land in an UT 1.5 (Urban Transition 1.5 Acre Minimum) zone, the standards, and criteria in Chapter 16.13.310 of the Marion County Code (MCC) apply:

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 nonremonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

Marion County LDEP has conditioned the proposal to meet these standards. The 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.*

The lot lines are being split along an undeveloped right of way which will make them more conducive to development and extension of services. This will not preclude any adjacent properties from development either, the area is fully developed with single family homes. The criterion is met.

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.*

Both proposed lots are just above 1.5 acres, to meet the minimum size of this zone. While the lot with the existing home will be larger than one acre, all of the undeveloped land is divided off in the rear parcel. This will make for more natural development in the future when it is annexed as the lots will be divided along a right of way, rather than leave lot lines across the Non-County Road 3505. The 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 new parcel will have a proposed approximate size of 1.646 acres and will be no smaller than 1.5 acres. 1.5 acres equates to 65,340 square feet. The minimum lot size in this zone for a single family dwelling is 7,000 square feet. Based on this, the proposed lot could accommodate up to 9 more lots when annexed into the City of Hubbard. A condition of approval will be added that a redevelopment plan showing future lots lines shall be submitted before plat approval. The criterion is met.

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

The smallest dimension shown is 236 feet. The criterion is met.

5. *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.*

This lot is not occupied by a non-residential use. The criterion does not apply.

6. *The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone*

Both lots meet this minimum lot size. 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.*

Conformance with these standards shall be made a condition of approval. The easement must be shown on the partition plat. 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: January 17, 2023

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.