

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. 24-007**

APPLICATION: Application of Botta Investments LLC to partition a 1.36-acre parcel into three parcels consisting of 44,983-square feet, 6,032-square feet, and 6,012-square feet in a UD (Urban Development) zone located at 4382 Hayesville Dr NE, Salem (T7S; R2W; Section 6DB, Tax lot 1400).

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

EXPIRATION DATE: This approval is valid only when the final partitioning plat is recorded by **August 27, 2026** (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). **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 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: Parcels ten acres and less must be surveyed, and per ORS 92.050 the plat must be submitted for review. Checking and recording fees 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. The final partition plat shall depict an access easement benefiting the subject parcels which meets the requirements of MCC 16.33.680 and any requirements of MC LDEP.
4. After the recording of the final partition plat, the resulting parcel's zone shall be changed from UD to RS (Single Family Residential).
5. The proposed "Parcel 1" (containing the existing dwelling) shall remain addressed **4382 Hayesville Dr NE**. The proposed "Parcel 2" (vacant) shall be addressed **4696 Dynasty Dr NE**, and the proposed "Parcel 3" (vacant) shall be addressed **4986 Dynasty Dr NE**. These addresses are not final. 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. Willamette Valley 911 in coordination with Marion County has named the private access easement "**Dynasty Drive NE**". The name shall be shown on the final plat and the road sign payment is due before the plat may be recorded.
6. Pursuant to City of Salem Council Policy X-4A/B, any future connections within these districts will require an annexation agreement to be filed with the City of Salem prior to permit issuance.

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

7. 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:

8. 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. Paula Smith, the district's Fire Marshal, can be reached at (503) 588-6513.
9. Prior to recording the plat, all taxes due must be paid to the Marion County Tax Office. The Tax Office may be contacted at (503) 588-5215 for more information.
10. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #7 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 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 **August 27, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 28, 2024**, 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's 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 Urban Development (UD). The intent of this zone is to provide for urban development consistent with the land use designation in the applicable city comprehensive plan where sanitary services are, or can be, made available.
2. The property is located on the south side of Hayesville Dr NE. The property contains one legal dwelling built in 1926 and an accessory structure. The parcel consists of approximately 1.36-acres.
3. The subject parcel has existed in its current configuration since at least March 17, 1975, as recorded in Reel 10 Page 1357. Therefore, the parcel is considered legal for land use purposes.
4. Properties to the north, east, and south are zoned RS (Single Family Residential). The west adjacent parcel is zoned UD, and on the other side of that parcel are a row of RS zoned parcels and then parcels within the City of Salem's jurisdiction. All surrounding properties are in use for homesites.

5. The property falls within the Jan Ree Water Service District and East Salem Sewer District. A will-serve letter from the City of Salem was provided by the Applicant. As per the will-serve letter, permitting through the City of Salem for those connections will be required, as well as an annexation agreement prior to permit issuance.
6. The applicant is proposing to partition the subject property into three parcels of 44,983, 6,032, and 6,012 square foot each; with Parcel 2 and 3 served by a 25-foot-wide access and utility easement off Hayesville on the northeastern section of the property.
7. Various agencies were contacted about the proposal and given an opportunity to comment.

City of Salem Community Planning and Development submitted the following:

Background:

The subject property is located outside of the City of Salem Limits, within Marion County. The subject property is located within the East Salem Sewer Service District and the Jan Ree Water Service District. The City of Salem sanitary sewer and water mains are located in Hayesville Drive NE and are available to provide sanitary sewer and water service to the property.

Conditions of Utility Service:

The City of Salem will provide permits for water and sewer connections at the developer's cost for future residential use on the subject property under the following conditions:

1. Pursuant to City of Salem Council Policy X-4A/B, any future connections within these districts will require an annexation agreement to be filed with the City of Salem prior to permit issuance.
2. There is an existing City of Salem sanitary sewer main located on the subject property. The applicants preliminary site plan shows the sanitary sewer main is not located within the easement area. Pursuant to the City of Salem Public Works Design Standards

(PWDS) Section 1.8, the applicant shall field locate the existing main and dedicate an easement centered on the main meeting the minimum width standards established in the PWDS Section 1.8 as a condition of sanitary sewer service and shown on the final partition plat. Additional easement width shall not be required where existing structures would interfere with the easement.

3. Permits will not be issued by the City of Salem Permit Application Center until all construction plans have been reviewed by the Development Services Division and designed in compliance with the City of Salem Revised Code, Public Works Design Standards, and the Standard Construction Specifications.

Additional Comments on Redevelopment Plan:

1. The applicant has provided a redevelopment plan which shows realignment of the City of Salem's sanitary sewer main through the property. Additionally, the plans show extension of City of Salem water mains in Goldenrod Avenue NE. This work will not be permitted until time of redevelopment and construction plans have been reviewed and approved by the Development Services Division. Plans prepared by a professional licensed civil engineer and designed in compliance with Salem Revised Code, Public Works Design Standards, and the Standard Construction Specifications, is required.
2. The applicant provided a redevelopment plan showing the extension of Goldenrod Avenue NE into the development site and terminating in a cul-de-sac. City standards require a 90-foot diameter cul-de-sac right-of-way and 76-foot diameter cul-de-sac pavement improvement. If redevelopment occurs within City limits, modifications to the street design may be necessary in order to conform to the Salem Revised Code, Chapter 803, relating to street improvements.

Marion County Land Development Engineering and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. The proposed east access easement is to be dedicated to serve all three parcels.
- B. The proposed shared east access approach would need to be widened to 20-24 feet under an Access Permit.
- C. Transportation System Development & Parks charges will be assessed upon application for building permits for new dwellings.
- D. Utility extension work in the public right-of-way requires permits from PW Engineering.

ENGINEERING ADVISORIES

- E. With regard to bringing in utilities to serve the proposed developable lots, the County has a 5-year moratorium on the cutting of new pavement. Note that Hayesville Drive is slated to be paved during the 3rd quarter 2024 as part of a county CIP project currently under construction.
- F. There is a 1-foot-wide reserve strip at the northern terminus of Goldenrod Avenue as depicted on the Wol-Nel Park subdivision plat [Vol 35, Pg 20] that is owned by Marion County. The Applicant would need to request a public R/W dedication over the strip should legally access from Goldenrod Avenue to the subject property be desired.

Marion County Surveyor's 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 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 Building Inspection commented: "No Building Inspection concerns with proposed partition. Permit(s) are required to be obtained prior to development and/or utilities installation on private property."

Marion County Tax Office provided information regarding property taxes on the subject parcel.

All other contacted agencies either failed to comment or stated no concern with/objection to the proposal.

- 8. Partitions within an Urban Growth Boundary (UGB) have requirements set forth in Marion County Code 16.33. Other requirements are set forth in the Urban Development chapter 16.15. Additional general requirements can be found in chapters 16.24 through 16.32.
- 9. The partition proposal was reviewed following the standards set forth in MCC 16.15.300:
 - A. This subsection discusses the criteria for divisions of land into four or more lots. The applicant is proposing three parcels. The criteria in this subsection do not apply.
 - B. *The following regulations shall apply when property line adjustments and partitionings 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 proposed partition creates two new parcels with frontage on Hayesville but combines their access onto an easement. The applicant submitted a redevelopment plan showing how the remaining lot may be redeveloped in the future into a cul-de-sac with frontage off Goldenrod Av NE which meets the southern edge of the subject parcel. The proposed parcels meet the density standards as listed in MCC 16.27.050(A). The criterion is met.

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

Marion County LDEP did not require any additional street right-of-way along Hayesville Drive. The criterion is met.

- 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.*

The existing dwelling is already served by the East Salem Sewer District. As per the will-serve letter from the City of Salem, new connections will require permitting through the City. The criterion is met.

- 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 did not condition any street or drainage improvements for approval of this land use case. LDEP did note that Hayesville Drive is being paved in Q3 of 2024 and a five-year moratorium of cutting of new pavement will be in effect. The criterion is met.

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 proposed parcel that will contain the existing dwelling is to be approximately 44,983 square feet in size. The two new parcels will both be just over 6,000 square feet. The applicant provided a redevelopment plan for the entire parcel showing the potential for a cul-de-sac at the end of Goldenrod. Per the applicant's site plan, the proposed parcel containing the existing dwelling meets the setbacks as set out in MCC 16.02.130 through 16.02.150. The criterion is met.

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

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 an identification for emergency vehicles in accordance with Chapter 11.55 MCC, Naming and Addressing Roads/Property.*

The proposed Parcels 2 and 3 have frontage on a public right-of-way but will be accessed off of the proposed easement. The site plan notes that the access and utility easement will be 25' wide with a 20' wide paved driveway. As a condition of approval, the easement will be dedicated to serve all three parcels, so that in the future it may. Therefore, these criteria are met.

11. 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: August 12, 2024

If you have any questions regarding this decision contact John Speckman 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.