

**Before the Planning Commission**

**Planning Department File No. 2021-12-001**

**CONDITIONAL USE APPLICATION  
FOR  
TENTATIVE APPROVAL FOR A PARTITION IN RURAL RESIDENTIAL**

Planning Commission Meeting Date: January 27, 2022

1. **APPLICANT:** Derrick McKrola  
3811 Birch Road  
Vale, Oregon 97918
2. **PROPOSED ACTION:** Tentative approval for a partition in a Rural Residential Zone.
3. **PROPERTY IDENTIFICATION:** Tax Lot 2700, T18S, R44E, Sec. 24; Assessors Map 18S44E24; Malheur County Reference #13520.
4. **PROPERTY LOCATION AND DIRECTIONS:** Property is located approximately 2.5 miles from Vale on Graham Blvd.
5. **ZONING:** Rural Residential (C-RR).
6. **PARCEL SIZE:** The parcel is 21.88 acres.
7. **PARCEL USE:** The property is currently being farmed and used as residential.
8. **SURROUNDING USE:** The parcel is surrounded in entirety by rural residential.
9. **ACCESS:** The new parcels will be accessible from a new private access easement from Birch Road.
10. **SANITATION REQUIREMENTS:** A DEQ approved sanitation system would be required for any new construction.
11. **FIRE PROTECTION:** The partition is located with the Vale Rural Fire District.
12. **NATURAL HAZARDS:** No natural hazards identified.
13. **WATER RIGHTS:** Water rights may be transferred or if kept will meet the requirements of Vale Oregon Irrigation District (see letter).
14. **ZONING HISTORY:** In 2020 a partition plat was tentatively approved for this parcel. This action will be voided upon approval of this application.

**MCC 7-7-3 – Requirements for Tentative or Conditional Approval:**

A. No application for partitioning in any zone shall receive tentative approval unless the following minimum requirements are met:

1. A minimum of five (5) years since the subject land was last involved in a partition creating three (3) parcels. If only two (2) parcels were created, the third parcel may be created without resetting the five (5) year clock.

**FINDING: A partition was granted tentative approval on December 21, 2020. No appeal was filed. The final map of partition was not filed within 6 months and therefore that approval is void. This is a new application for a modified partition.**

2. Proposal is in compliance with the comprehensive plan, transportation system plan and applicable zoning.

**FINDING: This partition is zoned Rural Residential. Rural Residential areas are reserved for ‘existing or future low-density residential development’. This partition would further that goal, as it is creating two lots intended for residential development.**

3. Proposal does not conflict with acquired public access easements within or adjacent to the partition and contributes its appropriate share to widening, extension and improvement of public rights of way and easements.

**FINDING: This proposal does not conflict with acquired public access easements adjacent to the partition. This partition does dedicate 30’ of right of way on Birch Road as required.**

4. Each parcel is suitable for the use intended or offered.

**FINDING: The newly created lots will be used for residential purposes. These lots are greater than two acres as required by Oregon Law. This will accommodate for a well and septic system on the properties, along with an area for future repair.**

5. An approved water rights division plan is provided if water rights are involved in the actin.

**FINDING: Applicant has stipulated that they will meet the requirements of the September 18, 2021 letter from the Vale Oregon Irrigation District. Upon meeting these requirements, this criterion is met.**

**If the applicant chooses to transfer the water rights off this property, then this criterion is not applicable.**

6. A statement from the administrative officer of any incorporated city with six (6) miles of the proposed partition stating any recommendations planning, engineering or other appropriate staff of the city have regarding the proposed partition.

**FINDING: A statement from Katy Lamb was received on January 5, 2021 for the first application. The response is still applicable for this application. The City has no objections.**

- B. In addition to the requirements specified in subsection A of this section, no partition in any zone other than EFU, ERU, or EFFU shall receive tentative approval unless all required public services and facilities are available and adequate or are proposed to be provided by petitioner.

**FINDING: All public services are available and accessible. In addition, the tentative plat has a 10' utility easement in order to ensure that each of the parcels have adequate access.**

- C. The planning director or his designate shall complete his technical review of partition proposals and then forward to the planning commission all partition proposals which create lots for which a street or road dedication is necessary in order to provide the frontage each parcel must have upon a public road or street (major partition).

**FINDING: There is adequate frontage of the parcels to public rights of way. The proposal does include a private access easement. As a condition of approval, the applicant should be required to file a road maintenance agreement along with the partition plat.**

- D. The county shall provide notice to the Oregon department of transportation (ODOT) as required by OAR 60-12-045(2)(f).

## CONDITIONS OF APPROVAL

1. Adequate access shall be secured for each individual partition. The approach for the sites shall meet all the requirements of the Vale Rural Fire District.
2. Applicant must meet the requirements of the Vale Oregon Irrigation District.
3. Adequate firebreaks shall be constructed and maintained to minimize danger from potential wildfire.
4. A road maintenance agreement must be filed alongside the partition plat for the private road easement.

## CONCLUSION

Based upon the foregoing findings of fact, the Malheur County Planning Commission makes the following conclusion and decision:

Substantial evidence exists on the record to support the conclusion that the application meets the criteria established in Malheur County Code and Oregon Revised Statutes for Tentative Approval of the partition plat.

### ORDER

The application for tentative approval of a partition plat is approved.

### APPEALS

The appellate body for appeals from the final decision of the Planning Commission is the County Court. To file an appeal an appellant must file a completed notice of appeal on a form prescribed by the Planning Department with a \$200.00 appeal fee with the Planning Department not later than 5:00pm on the tenth day following the mailing of written notice of the decision. Notice of appeals may not be received by fax or email. The notice must include a statement raising any issue relied upon for the appeal with sufficient specificity to afford the County Court an adequate opportunity to respond to and resolve each issue. All appeals from the Planning Commission's final decision shall be based on the record of the hearing made before the Commission. Therefore, no additional information or testimony not included in the record of the hearing before the Planning Commission may be brought before the appellate body. The appellant must pay for the transcription of the hearing appealed from and submit the transcript to the Planning Department within ten (10) days after the date of notice of appeal is filed or ten days after the hearing tape is mailed or given to the appellant, whichever is later.

  
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Planning Commission Chair  
Kathy Clarich

  
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Date