

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/ADJUSTMENT CASE NO. 24-001**

APPLICATION: Application of Brian Cisneros Perez to partition a 0.24-acre parcel into two parcels consisting of 6,037 and 4,370 square feet each and an adjustment to the rear setback from 14 feet to 8 feet for the existing dwelling in an RS (Residential) zone located at 4431 Beck AVE SE, Salem (T7S; R2W; Section 31AA; Tax lot 12800). T

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

EXPIRATION DATE: This approval is valid only when the final partitioning plat is recorded by **March 12, 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 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.
2. Per Marion County Surveyor's Office, the parcels must be surveyed and monumented, 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. Per Marion County Land Development Engineering and Permits (LDEP) the applicants shall dedicate public right-of-way (R/W) in the form of a 30-foot southeast property corner radius of the parent parcel.
4. Per the City of Salem Public Works, any new connections to sewer mains will require an annexation agreement to be filed with the City.
5. The proposed parcel which will contain the existing dwelling shall remain addressed **4431 Beck Ave SE**. The proposed vacant parcel shall be addressed **407 Eastland Place SE**. 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.

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 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:

7. The applicants should contact the Marion County Fire District No. 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.
8. 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.
9. The applicants should contact Marion County LDEP (503-584-7714) for details on any Engineering Requirements and/or Advisories as noted in Finding #6 below.

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 **March 12, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 13, 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 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 Single-Family Residential (RS). The intent of this zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located directly northwest of the intersection of Beck Ave SE and Eastland Place SE. The subject parcel contains one legal dwelling built in 1972 and an accessory structure.
3. The subject parcel is Lot 8 of Block 5 in the Planning Commission approved Eastland Park No. 2 subdivision. The lot has not been altered since the subdivision was finalized and therefore is considered legal for land use purposes per Marion County Code 16.49.152.
4. All surrounding properties are similarly zoned Single-Family Residential and are developed with homes.
5. The applicant proposes to divide a 0.24-acre parcel of land into two parcels consisting of approximately 6,022 and 4,335 square feet each. They also request an adjustment of the rear yard setback from 14 feet to 8 feet for resulting parcel with the existing dwelling located on it.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

-Parcels ten acres and less must be surveyed.

-Per ORS 92.050, plat must be submitted for review.

-Checking fee and recording fees required.

-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. Permits are required to be obtained prior to development and/or utilities installation on private property.

Marion County Land Development Engineering & Permits requested the following be included:

ENGINEERING CONDITION

Condition A – On the partition plat dedicate public right-of-way (R/W) in the form of a 30-foot southeast property corner radius of the parent parcel.

ENGINEERING REQUIREMENTS

B. At the time of application for building permits on the proposed north parcel it will be required under a permit to replace the fronting sidewalk due to its degraded state.

C. An ADU is required to share access with the main dwelling.

D. Utility connection and extension work in the public R/W requires permits from PW Engineering.

E. Transportation System Development Charges (SDCs) and Parks fee will be assessed at the time of application for building permits.

City of Salem Community Planning and Development Department commented: The subject property is located in the Suburban East Salem Water District and East Salem Sewer Service District. A sanitary sewer main is located in Beck Avenue NE. An additional sanitary sewer main is located in Eastland Avenue SE, approximately 30-feet north of the subject property. Any new connections to the sewer mains in this district will require an annexation agreement to be filed with the City of Salem where one has not already been done so, pursuant to Salem City Council Policy X-4A/B.

City of Salem Community Planning and Development Department also separately commented: The City recommends development meet all standards in Chapter 511 and Sec. 700.007 (a) of the SRC in order to not be non-conforming upon annexation.

Marion County Fire District No. 1 provided applicable fire code requirements that are included in the case file and provided to the applicant.

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

7. Partitions within an Urban Growth Boundary (UGB) have requirements set forth in Marion County Code 16.33. Other requirements, such as the minimum lot size, are set forth in the Single-Family Residential chapter 16.02. Additional general requirements can be found in chapters 16.26 through 16.34.

8. The partition proposal was reviewed following the standards set forth in MCC 16.02:
16.02.120 Lot area and dimensions.

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.*

The subject parcel is within the Salem/Keizer Urban growth boundary. The applicant proposes a partition to create parcels of 6,037 and 4,370 square feet each. Therefore, they will both be above the minimum size for their location within the Salem/Keizer UGB. The criterion is met.

- 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.*

The subject parcel is within the Salem/Keizer UGB and therefore must meet those width (40') and depth (70') requirements. The site plan provided by the applicant indicates these lots will both be larger than the minimum dimensions. The criterion is met.

9. 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 site plan provided by the applicant shows that no easement will be necessary as both proposed parcels will have frontage on a public right-of-way. The criteria does not apply.

10. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. It states:

The development standards in the applicable zone and the development requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for adjustments:

- (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The purpose of the RS (Single-Family Residential) zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities. To achieve the proposed partition and allow another parcel to be created and meet the purpose of the RS zone, the adjustment to the northern setback of the proposed southern parcel is required. This reduced setback will only affect the subject parcel, and the effect will not be significantly adverse the existing use of the residential structure currently on the property. The criterion is met.

- (b) *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

The proposed setback reduction is from 14 feet to 8 feet from the existing dwelling to the newly proposed property line. The side setback of the planned dwelling on the proposed new parcel is 5 feet, so the total distance between structures will be 13 feet. Were the existing dwelling not south facing, the combined side setbacks would only create a 10-foot minimum distance between structures. Marion County Fire District No. 1 was contacted for comment on the proposal and had no comment. If development proceeds as plans are shown relative to the current application, there will be no significant adverse effect upon health or safety of anyone working or residing in the area. The criterion is met.

- (c) *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*

The proposed adjustment to this setback is the minimum necessary to accommodate the partition and development of this property, while maintaining all setbacks on the proposed new parcel and subsequent development of a dwelling and ADU thereon. The criterion is met.

- (d) *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.*

The specific provision of a rear yard setback is to create reasonable and livable space between dwellings. The proposed adjustment to reduce this setback still creates a functional rear yard large than the minimum in denser zones such as RM (Multi-family residential). The proposed setback is also larger than the 5-foot setback minimum of the proposed norther parcel, creating a space between structures that is larger than the minimum for houses sitting side by side in this zone. The criterion is met.

11. Based on the above findings, it has been determined that the proposed partition and adjustment request satisfy all applicable criteria and are, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: February 26, 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.