

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. 18-017**

**APPLICATION:** Application of Excellence Investments and Rentals, Inc. to divide a 0.45 acre parcel into three parcels containing 6650 square feet, 6650 square feet, and 6650 square feet each in a UD (Urban Development) zone located at 1235 Hoffman Road NE, Salem (T7S; R2W; Section 20CA; tax lot 2300).

**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 **August 8, 2020**. 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 18-017. 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. The applicant is advised that a Partition Plant Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. 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** – Dedicate a 30-foot wide public right-of-way half-width for Hoffman Road on the partition plat pursuant to county's Local road standard.*

***Condition B** – Prior to plat approval, record a Non-Remonstrance Agreement (NRA) regarding the future funding of roadway frontage improvements to Marion County and City of Salem standards for an urban Local street, including road widening to provide a 17-foot half-width, PCC curb/gutter, driveway approach, sidewalk, closed drainage system, and landscape strip along the subject property Hoffman Road frontage.*

***Condition C** – Prior to plat approval, under an Access Permit construct a hot mix asphalt driveway approach centered within the proposed access easement, establish a roadside drainage swale, install a driveway culvert and perform roadside vegetation abatement in support of Intersection Sight Distance.*

***Condition D** – Prior to plat approval, design, permit and construct a stormwater conveyance and attenuation system on the subject property to serve the 3 lots.*

4. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System, has named the proposed private access easement **SERGIO PL NE**. The name must be shown on the final partition plat, and a

work order for the street sign installation, with appropriate fee, must be submitted to Marion County Public Works **prior to the plat being recorded.**

5. Prior issuance of building permits, the applicant shall submit evidence that the access easement has been improved to the standards in MCC 16.33, which may include paving of at least 20 feet in width. The access easement is also to provide for utilities.
6. 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.

**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 #5 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 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. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.

**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 **August 8, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 9, 2018** unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which the decision was based are noted below.

1. The subject parcel is located within the Salem Urban Growth Boundary (UGB), designated Single Family Residential in the Salem Comprehensive Plan, and zoned UD (Urban Development). The UD (URBAN DEVELOPMENT) zone is under the jurisdiction of Marion County.
2. The property is located on the west side of Hoffman Road NE in the 1200 block. The property contains a storage unit. The property is a part of East Salem Fruit Farms, a legally platted subdivision.
3. The properties to the north, south, and east are zoned UD and in residential development. Property to the west is inside the City of Salem and developed with a park.

4. The applicant proposes to divide a 0.45 acre parcel into three parcels containing 6650 square feet, 6650 square feet, and 6650 square feet each.
5. Public Works Land Development and Engineering Permits requested that Conditions A through D be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and are available for review in the Planning file. LDEP will not approve the final plat for recordation until the following conditions have been met:

*“**Condition A** – Dedicate a 30-foot wide public right-of-way half-width for Hoffman Road on the partition plat pursuant to county’s Local road standard.*

Nexus is the anticipated added traffic to the road and the need for additional width to accommodate urban road improvements and space for utilities [MCC 16.33.260].

***Condition B** – Prior to plat approval, record a Non-Remonstrance Agreement (NRA) regarding the future funding of roadway frontage improvements to Marion County and City of Salem standards for an urban Local street, including road widening to provide a 17-foot half-width, PCC curb/gutter, driveway approach, sidewalk, closed drainage system, and landscape strip along the subject property Hoffman Road frontage.*

A NRA is in lieu of the immediate design, permitting and construction of urban frontage improvements, in consideration of the surrounding and nearby properties being in a transitional, semi-urban state lacking such similar frontage improvements, and a desire to achieve an overall end product in the future. Public improvement requirements for partitions are in accordance with MCC16.33.160 and 16.33.320. The Agreement will require the Applicant and/or their heirs, successors and assigns, to participate financially to a level proportional to the costs of their frontage improvements at the time a governing jurisdiction project or governing jurisdiction-approved third party project is developed that would include the subject property frontage. The Agreement will be binding such that the property owners would be equally financially responsible for one-third fraction of street frontage at the time of project inception. A recordable agreement will be provided by Marion County Public Works, and will be recorded concurrently with the plat.

***Condition C** –Prior to plat approval, under an Access Permit construct a hot mix asphalt driveway approach centered within the proposed access easement, establish a roadside drainage swale, install a driveway culvert and perform roadside vegetation abatement in support of Intersection Sight Distance.*

This *Condition* is mainly one of timing, in order to meet Public Works (PW) Engineering standard access requirements prior to plat approval. No Portland Cement Concrete shall be placed in the public right-of-way. The HMAC (asphalt) paving is a transitional installation prior to future urbanization of the street segment.

***Condition D** – Prior to plat approval, design, permit and construct a stormwater conveyance and attenuation system on the subject property to serve the 3 lots.”*

Marion County Surveyor 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 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.”

Salem/Keizer School District commented on the cost to construct school facilities to serve the proposed development.

6. In order to partition land in an UD (Urban Development) zone the standards and criteria in Chapter 16.15.300(B) of the Marion County Code (MCC) apply:
  - (a) *Existing lots with dwellings may be separated from the remaining property provided:*
    - (1) *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 subdivisions achieving the median density proposed in the Comprehensive Plan.*

- (2) *Any additional street right-of-way required by adopted standards is dedicated along the lot's street frontage.*
  - (3) *If the dwelling is within 300 feet of a sewer line capable of serving the dwelling, the dwelling shall be connected to the sewer.*
  - (4) *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.*
- (b) *The minimum lot size for partitioning and lot 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 (a) (1). The location of lot lines on the dwelling lot shall conform to the yard requirements of the RS zone.*

7. The property previously had a dwelling, but it has been removed according to information provided by the applicant. The applicant requests to divide a 0.45 acre parcel into three parcels containing 6650 square feet, 6650 square feet, and 6650 square feet each, meeting the minimum lot size requirements. All parcels will be served by an access easement. Given the fact that surrounding properties are developed with homes, and with a review of the submitted site plan, it appears that this proposal will have no effect on future development options for these properties. The criterion in #6(a)(1) is satisfied. Marion County Public Works indicated that additional right-of-way dedication is required and must be shown on the final plat and that the applicant would have to agree to certain future frontage improvements and development standards. The applicant must obtain access permits. If these requirements are added as conditions of approval the proposal can satisfy #6(a)(2) and (4). Any additional development may require the applicants to meet the requirements of the City of Salem Public Works Department prior to obtaining water and sewer hook ups. The proposal can meet #6(a)(3). The three proposed lots exceed the 6,000 square foot minimum lot size and are of sufficient size and shape for residential development. The proposal meets #6(b).

8. 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.*

The applicants are proposing an access easement to serve the new parcels. The requirements in Chapter 16.33.680 can be made a condition of any approval. It should be noted that the easement must also meet local Fire District Standards. Under the provisions in the Marion County Address and Street Name Ordinance, the easement must be named and all properties accessing the easement must be addressed from the roadway. A list of names had previously been submitted to the 911 Dispatch Center for review and **SERGIO PL NE** has been approved. The name must be shown on the plat and prior to the recording of the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works.

9. Marion County Code 16.15.310(B) states:

*Notwithstanding the zone change procedures in this title, upon approval and recordation of a subdivision or planned development or partition plat as prescribed in Chapter 16.33 MCC, the land included in the plat shall automatically be rezoned to the RS (single-family residential) zone and the official zoning map shall be amended accordingly, unless the decision approving the plat expressly provides for retention of the UD zone, or a change to another zone is approved as part of a concurrent zone change application.*

However, it is not the usual planning practice to zone an individual property differently from other properties nearby unless there is a specific reason to do so. There does not appear to be a specific reason to rezone the property; other properties in this area that have been divided previously were not rezoned to Single-Family Residential. The subject property is also adjacent to the city limits of Salem and the property could be annexed and rezoned at the time of annexation. Therefore, it will not be made a condition of approval that the property be rezoned upon recordation of the plat.

10. Based on the above findings, the proposed partitioning complies with the criteria for a partitioning in the UD zone and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: July 24, 2018

If you have any questions please contact Brandon Reich 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.