

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
ADJUSTMENT CASE NO. 18-008**

APPLICATION: Application of Standish Land Co for an adjustment to reduce the required 10 foot front yard setback for a fence to 8 feet on a 1.39 acre parcel in a CR (Commercial Retail) zone located at 4106 State St, Salem (T7S; R2W; Sec. 30CD; tax lot 4800).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Adjustment, subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **December 5, 2020** unless an extension is granted. The effective period may be extended for one 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).

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. 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:

1. The applicants shall obtain all permits required by the Marion County Building Inspection Division.

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 any restrictions or conditions thereon.

2. 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.

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 deny the application. Anyone who disagree with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **December 5, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **December 6, 2018** unless appealed.

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

1. The property is designated Commercial Salem Area Comprehensive Plan. The purpose of this designation and the corresponding CR (Commercial Retail) zone is to provide areas suitable for professional and general commercial offices, sales, services and accommodations.
2. The property is located on the south side of State St in the 4100 block. The parcel contains a new steel building that is under construction.

3. Surrounding properties to the north and west are zoned CR (Commercial Retail) and on the southwest and east by property in an RM zone. To the southeast is property in an RS zone.
4. The applicant proposes an adjustment to reduce the required 10 foot front yard setback for a 6 foot wood fence to 8 feet on a 1.39 acre parcel.
5. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Tax Assessor provided property tax information for the property.

6. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. These include:
 - (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
 - (b) *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
 - (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*
 - (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.*
7. There is no evidence that the adjustment will have any significant adverse impact on other property in the area. The proposed fence is buffered by the 60 foot right-of-way of State St, and solid fences are common in commercial developments. The proposed adjustment would occur along the northern property line, and the existing development site across State St should not be adversely impacted by the fence. There is no indication that the proposal would create health and safety issues in the vicinity. Based on available information the proposal can comply with the criteria listed in #6(A) and (B).

MCC 17.116.030(H) allows for the minimum necessary to meet the limits of the adjustment subject to the review of the county engineer. As previously mentioned, Public Works is satisfied with the proposal. The degree of adjustment requested appears to be the minimum necessary to allow construction of a fence that meets the property owner's desired development needs. The property is situated on a 1.39 acre parcel and surrounded by land in the same zone. The development meets the intent of the setback provision that provides for open space and a safe access onto the roadway. The proposal meets #6(C) and (D).

8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: November 20, 2018

If you have any questions regarding this decision contact Patty Dorr 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.