

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
CONDITIONAL USE CASE NO. 21-059**

APPLICATION: Application of the Restored Church of Christ for a conditional use permit to establish a religious organization on a .58 acre parcel located in the Urban Development zone on the 4400 block of Blueberry Lane NE, Salem. (T7S, R2W, Section 07DC, Tax Lot 501).

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

EXPIRATION DATE: This decision is valid only when exercised by **February 3, 2024** unless an extension is granted. The effective period may be extended for two years subject to approval of an extension (form available from the Planning Division). Request for an extension must be submitted to the Planning Division prior to expiration of the approval.

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 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 obtain all permits required by the Marion County Building Inspection Division.
2. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:

Condition A – Prior to issuance of Building Permits for the proposed church, submit a design for review and approval of partial urban-style access and drainage improvements to the private easement Blueberry Lane NE. Prior to issuance of a Certificate of Occupancy, complete construction of the improvements. Improvements shall include the following:

- *Blueberry Lane minimum total 20-foot wide HMA paved surface extending from the 45th Avenue driveway apron to the westernmost church driveway;*
 - *5-foot wide separated or otherwise protected concrete sidewalk pedestrian pathway along the southern-half of the easement extending from 45th Avenue sidewalk to the subject property eastern property boundary; and,*
 - *Closed drainage system modifications in association with pavement widening; connect to existing 12-inch diameter storm pipe in Blueberry Lane.*
3. Prior to issuance of a certificate of occupancy, the parking lot shall be screened from the residential uses located to the north with a sight-obscuring wall or fence.
 4. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
 5. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

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. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicant 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. The contact person is Paula Smith at (503) 588-6513.
7. 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 to with adopted land use policies and regulations the Director must deny the application. Anyone who disagrees 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 \$250.00 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 **February 3, 2022**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 4, 2022** unless appealed.

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

1. The subject properties are designated Multi-Family Residential in the City of Salem Comprehensive Plan and correspondingly zoned UD (URBAN DEVELOPMENT) under the jurisdiction of Marion County. The primary intent of both this designation and zone is to provide for urban development consistent with the Multi-Family Residential designation where urban services are, or can be made, available.
2. The property is located on the southwest side of Blueberry Ln NE at its intersection with 45th Av NE and is currently vacant. A review of land use cases for the property indicates that it was created through Partition Case 10-003 (P10-003) and the property line adjusted via Property Line Adjustment Case 13-005 (PLA13-005). Therefore, the parcel is recognized as a legal parcel for land use purposes.
3. Surrounding uses include single and multi-family residential developments to the north, east and south with Chemeketa Community College to the west.
4. The applicant is proposing to establish a religious organization (church) on the property.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following condition, lettered A, be included in the approval of the land use case. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file.

CONDITIONS

Condition A – Prior to issuance of Building Permits for the proposed church, submit a design for review and approval of partial urban-style access and drainage improvements to the private easement Blueberry Lane NE. Prior to issuance of a Certificate of Occupancy, complete construction of the improvements. Improvements shall include the following:

- *Blueberry Lane minimum total 20-foot wide HMAC paved surface extending from the 45th Avenue*

- *driveway apron to the westernmost church driveway;*
- *5-foot wide separated or otherwise protected concrete sidewalk pedestrian pathway along the southern-half of the easement extending from 45th Avenue sidewalk to the subject property eastern property boundary; and,*
- *Closed drainage system modifications in association with pavement widening; connect to existing 12-inch diameter storm pipe in Blueberry Lane.*

Nexus is a projected increase in vehicular and pedestrian traffic to/from 45th Avenue, and in general accordance with MCC 16.20.20, 16.20.30 and 16.20.40. Blueberry Lane paved surface at approximately 12 feet in width is currently constructed to accommodate low-volume residential traffic at best. Applicant shall submit signed/sealed engineering design plans to Public Works Engineering for review and approval. Please note PW Engineering will not issue a permit for reconstruction of the Lane since it is located within a private easement. However, once the improvements are completed, EOR-certified As-Built drawings shall be submitted to Public Works Engineering attesting to substantial conformance with the approved design.

ENGINEERING REQUIREMENTS

- B. Upon application for building permits, an Access Permit will be required.*
- C. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation System Development Charges (SDCs).*
- D. Submission of a civil engineering site and offsite development plan is required at 0.5 acres of development. Furthermore, storm water detention will need to be incorporated into the overall civil site design. PW Engineering highly recommends gaining at least engineering plan concept design concurrence prior to submitting for building permits.*
- E. The Oregon Department of Environmental Quality (DEQ) has designated a “Stormwater Management Area” (SMA) in Marion County, within which the subject property is located. Marion County is currently accountable to the DEQ under their NPDES Phase II MS4 Permit to regulate Erosion Prevention & Sediment Control (ESPC) practices within the SMA for ground disturbing activity totaling less than one (1) acre. The Applicant is required to implement and maintain erosion prevention practices during construction activities that will result in ground disturbance. Upon application for building permits, the Contractor will be required, as a prerequisite to issuance of building permits, to sign an Acknowledgement Form verifying their knowledge of the responsibility.*
- F. Utility work in the public right-of-way requires a permit from Public Works Engineering.*

Marion County Building Inspection commented that building permits are required for any new construction.

City of Salem Planning commented: “If annexed in the future, the proposal would need to meet the special use provisions of SRC 700.055 for an RM-zoned property, or it would become nonconforming upon annexation.

Marion County Fire Dept. No. 1 provided comments related to fire flow standards, building identification, fire truck access standards and turnaround dimensions. These comments are available in the case file.

- 6. All conditional uses are subject to the general criteria in Section 16.40.020 of the Marion County Code (MCC) and include:
 - (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

A religious organization is listed as a conditional use in the UD zone. The underlying comprehensive plan designation of the property is residential and religious organizations are commonly allowed in residential areas.

The church would have driveway access off Blueberry Lane NE and served by onsite well and septic system. Marion County provides police protection and Marion Fire District #1 provides fire protection.

- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

The property is level, rectangular and located in a residential area. The property could be used for the intended purpose with no adverse effects on natural features or require any special construction as a result of the characteristics of the site.

- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone*

Based on the size of the church proposed, the property appears to be suitable for the proposed use and because of religious organizations' general compatibility with residential uses, there should be little to no negative impact to surrounding residential neighbors.

- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

There is no evidence that the use will have a significant adverse effect on air or water quality.

- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

Public and utility services are available in the area and could be made available to the site when it is developed.

7. Conditional uses in the UD zone are subject to the criteria in MCC 16.15.030. Before a conditional use permit may be approved it must be found that the following criteria applicable to the proposed use will be satisfied in addition to the criteria in MCC 16.40.020 which include:

- (a) *The use and related buildings will be located in such a manner that any significant unused portion of the property has adequate development options and development options.*

The site plan indicates that most of the site will be developed for the church. There will be no significant undeveloped areas on the property.

- (b) *For uses other than a single-family dwelling, the use independently or together with nearby uses will not require installation of urban facilities identified in MCC 16.40.030(J), or such facilities will be provided as prescribed in Chapter 16.40 MCC.*

Public and utility services are available in the area and could be made available to the site when it is developed. Marion County Public Works has identified road improvements that are required to serve the proposed use. The improvements can be required as a condition of any approval. This standard can be met subject to conditions.

- (c) *The use meets the development standards of the most restrictive zone used in the applicable Comprehensive Plan designation.*

The most restrictive zone implementing the Multiple Family Residential comprehensive plan designation is the RL (Limited-Multiple Family) zone. The applicant demonstrated with the site plan and in the statement that the development standards of RL zone can be satisfied.

- (d) *The use is a permitted or conditional use in the most restrictive zone used in the applicable comprehensive plan designation*

A religious organization is listed as a conditional use in the UD zone. The underlying comprehensive plan designation of the property is residential and religious organizations are commonly allowed in residential areas.

8. Religious organizations are also subject to the use standards in MCC 16.26.600, these include which include:

A. *Side and Rear Yards. Minimum of 25 feet in or abutting every residential zone or use.*

The proposed structure will meet the minimum 25 feet from all property lines. This standard is met.

B. *Landscaping. All required yard areas adjacent to streets or property in a residential zone not lawfully developed for buildings, structures, parking, loading or driveways shall be landscaped as provided in Chapter 16.29 MCC.*

The applicant proposes to maintain this area as landscaped. This standard is met.

C. *Off-Street Parking. No off-street parking or loading area shall be permitted within 10 feet of a residential zone or use.*

The property to the south is zoned Multi-Family Residential (RM) and developed as a dance hall. The proposed parking lot is over 10 feet from the common (south) property line. The properties north of the subject property are in a UD zone, but are developed with dwellings and the required setback of 10 feet applies to the north property line. The parking lot is located 12 feet from the north property line. This standard is met.

D. *Screening of Off-Street Parking. Where any portion of an off-street parking area other than a garage is within 15 feet of a lot zoned or used for residential purposes, the perimeter of the parking area facing such residential zone or use shall be screened by a sight-obscuring fence, wall or hedge.*

The site plan submitted by the applicant proposes parking within 15 feet of a residential use to the north of the property. Therefore, the parking lot must be screened on the north side. No landscaping is identified on the site plan, therefore a sight-obscuring fence or wall must be constructed along the north side of the parking lot to screen the parking spaces from the adjacent dwellings. Any approval can be conditioned to meet this standard.

E. *Street Access. Unless permitted by the county, only one vehicle access driveway per street frontage shall be permitted in a residential zone, or on a local street in any other zone abutting a residential zone. Where a parking area is on property having frontage on a collector or arterial street, access shall be limited to such collector or arterial unless alternate access is required by the county.*

The parking lot is accessed via a private easement and not a public street, therefore the proposed development is compatible with this standard.

F. *Other Related Uses. Schools, child day care services, kindergartens, meeting facilities for clubs and organizations, and other similar uses which are not operated primarily for the purpose of religious instruction, worship, government of the church, or the fellowship of its congregation shall be permitted only to the extent to the activity is otherwise permitted in the zone. Storage of buses used to transport the congregation is permitted if buses are not parked closer than 20 feet to a lot in a residential zone.*

The applicant is not proposing any related uses on the property. This standard is met.

9. Based on the above findings, it has been determined that the request satisfies all applicable criteria for a conditional use to locate a religious organization on property in the UD zone and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich
Director-Planning Division

Date: January 19, 2022

If you have any questions please contact Austin Barnes at (503) 588-5038