

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
ADMINISTRATIVE REVIEW CASE NO. 22-030**

APPLICATION: Application of Brandie Dalton on behalf of Richard and Jeanne Eikrem and Ruthie Cain for an administrative review to determine the legal status of five lots on 5.25, 16.11, 8.71, 11.74, and 6.15-acre parcels in a UT-10 (Urban Transition – Minimum 10 acres) zone located at 7006 Sunnyside Road SE, Salem. (T8S, R3W, Section 26A, Tax Lots 200, 300, 400, 401, and 500).

DECISION: The Planning Director for Marion County has **determined that tax lots 500, 400 and 200 are separate legal lots, while tax lots 300 and 401 comprise one separate legal lot.**

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

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 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 **November 30, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 1, 2022**, unless appealed.

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

1. The subject property is designated Developing Residential in the City of Salem Comprehensive Plan and zoned UT-10 in Marion County.
2. The subject properties are located at the end of Cains Pl SE, to the west of Interstate 5 and east of the Spare Ridge Estates Subdivision. Tax lot 500 contains a dwelling built in 1936 and 3 accessory structures. Tax lot 400 is vacant. Tax lot 200 is also vacant. Tax lot 300 contains a dwelling built in 1989 and 3 accessory structures. Tax lot 401 is vacant.
3. Surrounding uses are residential to the north and west, with the areas being developed inside the City of Salem as subdivisions. The area to the east is right of way used by Interstate 5 and to the south is an active farm in hay production.
4. The applicant is requesting a review to determine how many legal lots exist within the property. Per Marion County Code 16.42.110, a proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review when it requires an interpretation or the exercise of factual, policy, or legal judgement. Section 17.115.110 (A) states:

A. The decision shall be made on the basis of the applicable city comprehensive plan and applicable standards and criteria in the Marion County urban zoning ordinance. The zoning administrator or designee may attach any

conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel or to the standards or criteria. Administrative review applications may be filed and shall be signed as required in Chapter 16.36 MCC. Notwithstanding any other provisions of this title, the zoning administrator or designee may forward any land use permit or application to the planning commission or hearings officer for a public hearing and initial decision.

5. Salem Fire Department commented “Items including fire department access and water supply will be evaluated at the time of development.”

Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.

6. Marion County Code 16.49.194 defines a legal lot as:

“Lot” means a unit of land created by a subdivision or partitioning as defined in ORS 92.010 in compliance with all applicable zoning, subdivision and partitioning ordinances; or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning ordinances, exclusive of units of land created solely to establish a separate tax account. [Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 49.152.]

7. The applicant provided deed history for the lots which were reviewed with deeds taken from the Marion County Assessor database as well as the land use history for the lots, which includes Major Partitioning 79-136 and Lot Line Adjustment 89-003.

Three lots originally existed by deed that now encompass the subject properties. All owned by Betty Simmons, they were Lot 1: Volume 584, Page 815 recorded April 16th, 1964, Lot 2: Volume 483, Page 563 recorded January 3rd, 1952, and Lot 3: Volume 471, Page 319 recorded January 12th, 1955.

In 1979, Betty Simmons applied to partition Lot 1 via P79-136 into two lots, A (5.23 acres) & B (22.26 acres). These were legally created for land use purposes. They are described by Reel 207, Volume 58, recorded March 31st, 1980.

In 1989 Betty Simmons and Harvey and Ruthie Cain applied for a lot line adjustment (LLA89-009) to adjust the lot lines on what is currently tax lot 300 and tax lot 400 (Parcel B of P79-136). This lot line adjustment reduced the size of tax lot 400 to 16.11 acres and extended tax lot 300 south, into its place to a total of 17.94 acres in one parcel. The Tax Assessor has broken what was tax lot 300 into two tax lots, 300 and 401, which comprise one legal lot. This is described by Reel 679, Volume 339 recorded March 21st, 1989. The current configuration of tax lot 400 is described by Reel 703, Page 186 recorded July 1st, 1989. Therefore, these parcels are legal for land use purposes.

In summary:

- Tax lot 500 was created by P79-136 and is a separate legal parcel.
- Tax lot 400 was created by P79-136 and adjusted to its present configuration by LLA89-009 and is a separate legal parcel.
- Tax lot 200 was created by deed Volume 483, Page 563, recorded January 3rd, 1952, and is a separate legal parcel.
- Tax lot 300 was created by deed Volume 471, Page 319, recorded January 12th, 1955, and adjusted to its present configuration by LLA89-009, this together with tax lot 401 is a separate legal parcel.
- Tax lot 401 is the adjusted land from LLA89-009 and together with tax lot 300 is a separate legal parcel.

8. Based on the above findings, it has been determined that the parcels were legally created and met all applicable criteria, and the administrative review is therefore, **APPROVED**.

If you have any questions regarding this decision contact Austin Barnes 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.