

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. 23-027**

APPLICATION: Application of Vickie Cochran for an administrative review to determine the number of legal lots on a tract of approximately 1.98-acres in an UT (Urban Transition) zone located in the 5600 block of Skyline Road S at the corner of Davis Road S and Skyline Road S, Salem (T8S; R3W; Section 17DB; Tax Lot 900).

DECISION: The Planning Director for Marion County has determined that the subject parcel, tax lot 08-3W-17DB-00900, was **LEGALLY** created and established.

EXPIRATION DATE: This decision is valid only when exercised by **October 21, 2027** (four years), unless an extension is granted. The effective period may be extended for two years 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.

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.

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 **October 23, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 24, 2023**, 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 is correspondingly zoned UT-5 (Urban Transition - 5 acre minimum). The primary intent of both this designation and zone is to retain and protect future urban use properties and provide areas for future residential development.
2. The subject property lies directly northeast of the intersection of Skyline Rd S and Davis Rd S. The subject property is bare land.
3. Surrounding properties to the east, north, and west (across Skyline Rd S) are also zoned UT-5 and are developed with dwellings. To the very southwest of the property, across Davis Rd S, is one UT-10 parcel. Adjacent on the east side of this property and directly south of the subject property is a developed subdivision (Bella Cresta). The subdivision lays within the city limits of Salem.

4. The applicant is requesting a review to determine the legality of tax lot 08-3W-17DB-00900. 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 16.42.110 (A) states:

“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. Marion County Code 16.49.194 uses the definition of “lot” (as given in 16.49.152) to define a legal parcel.

“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.

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

7. The applicant provided a deeds Reel 4537 Page 383 and Vol. 637 Page 188 for the subject property. These were reviewed along with deeds taken from the Clerk’s Office records, and recorded surveys and plats.

Staff used the following documents, listed in chronological order of recording date, to make the determination:

- Marion County Survey of Record 19948, recorded on Aug. 29, 1967
- Book of Records Volume 637 Page 188, recorded on Sept. 26, 1967
- Book of Records Volume 764 Page 419, recorded on Nov. 2, 1973
- Book of Records Reel 4537 Page 383, recorded on Sept. 9, 2021

Marion County Survey of Record (MCSR) 19948 shows a division of land creating the subject property and tax lot 08-3W-17DB-01200 to the north. This is followed a month later by Vol. 637 Page 188, conveying the northern parcel (tax lot 1200) out of common ownership. In November 1973 the southern parcel (tax lot 900) was conveyed using a legal description of the entirety of the original parcel (containing both tax lots 900 and 1200), Save and Except the land sold in Vol. 637 Page 188 (tax lot 1200). This is the same legal description still used today in Reel 4537 Page 383. Therefore, the land has been described in its current configuration since prior to Sept. 1, 1977, when statewide planning and zoning were adopted. Per the definition in MCC 16.49.152, “...or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning ordinances,” the subject parcel was **LEGALLY** created and is valid for land use purposes.

8. Based on the above findings, it has been determined that the subject parcel is one **legal** lot.

Brandon Reich
Planning Director/Zoning Administrator

Date: October 6, 2023

If you have any questions regarding this decision contact Nicole Inman 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.