

**NOTICE OF DECISION  
PARTITION CASE NO. 19-008**

**APPLICATION:** Application of Robert and Lynn Jamsgard to divide a .46 acre parcel into three parcels containing 11,400 square feet, 4,300 square feet and 4,300 square feet each in a RS (Single Family Residential) zone located at 4230 Glenwood Dr. SE, Salem. (T7S; R2W; Section 31AC; tax lot 5700).

**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 **July 31, 2021**. 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:

**Prior to recording the final plat:**

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5038) and shall contain the notation that the survey is the result of Partition Case 19-008. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
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. Prior to plat approval, the applicant shall submit evidence that an annexation agreement has been executed with the City of Salem.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

***Condition A** - Prior to plat approval, applicant shall demonstrate a good faith effort to obtain and record an access easement (or easements) to serve the two proposed southerly lots from the private easement Atwater Lane SE (taking access off Macleay Road SE to the south of the subject property, see PP2005-44).*

***Condition B** - Prior to plat approval; submit a civil engineering plan to MCPW Engineering for review and approval that depicts all elements necessary to serve the development such as access, drainage and utilities.*

***Condition C** - Prior to plat approval, applicant shall obtain an Access Permit, and under the permit, pave the existing graveled access to the parent parcel dwelling as well as construct a paved shared access approach with hot mix asphalt centered on a tentative access easement from Glenwood Drive in conformance with Marion County Standards. If the easement(s) mentioned in Condition A are able to be obtained, the paving of the shared access approach portion of this Condition is moot.*

***Condition D** - Prior to plat approval, Applicant shall record a Declaration of Covenants for Road Maintenance Agreement (RMA) regarding any shared access easements.*

**Condition E** - Prior to plat approval, Applicant shall record a Non-Remonstrance Agreement for future urban frontage improvements along the Glenwood Drive SE frontage.

**Condition F** - Prior to plat approval, design, permit and construct a stormwater collection, conveyance, and attenuation system serving each of the lots.

**Condition G** - On the plat, depict appropriate private drainage easements necessary to accommodate the required private drainage system.

**Condition H** - On the plat, depict a 10-foot wide public drainage easement along the eastern property boundary granted to East Salem Service District (ESSD).

**Condition I** - Prior to plat approval, under Marion County permit(s), cause public and franchise utility service laterals to be installed serving the two developable lots.

5. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System, has named the proposed private access easement **BONITA PL SE**. 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**.
6. The proposed private access easement shall have a minimum width of 25 feet.

**Prior to issuance of building permits on the resulting parcels:**

7. The partition plat shall be recorded.
8. 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.
9. Prior to issuance of building permits, the applicant shall submit evidence that a sewer permit has been obtained from the City of Salem.

**ADDITIONAL CONDITIONS:** Once the approved use is established, the following conditions must be continually satisfied:

10. After the final partition plat has been recorded, no alteration of property lines shall be permitted without first obtaining approval from the 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:

11. 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).
12. 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.
13. 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 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 **July 31, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 1, 2019** unless further consideration is requested.

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

1. The property is designated Single Family Residential in the Salem Area Comprehensive Plan. The major purpose of this designation and the corresponding RS (Single Family Residential) zone is to provide areas for residential development on individual lots at urban densities.
2. The property is located on the south side of Glenwood Dr. SE approximately 240 feet southeast of its intersection with Elma Ave SE. The property contains an existing dwelling. The property was described by deed on April 28, 1969 (Volume 663, Page 629) and is therefore considered a legal parcel for land use purposes.
3. Surrounding properties in all directions are zoned RS and in residential development.
4. The applicant proposes to divide a .46 acre parcel into three parcels containing 11,400 square feet, 4,300 square feet and 4,300 square feet each. The existing dwelling will remain on the 11,400 square foot parcel and new homes may be placed on the two 4,300 square foot parcels.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use decision:

*“**Condition A** - Prior to plat approval, applicant shall demonstrate a good faith effort to obtain and record an access easement (or easements) to serve the two proposed southerly lots from the private easement Atwater Lane SE (taking access off Macleay Road SE to the south of the subject property, see PP2005-44).*

***Condition B** - Prior to plat approval; submit a civil engineering plan to MCPW Engineering for review and approval that depicts all elements necessary to serve the development such as access, drainage and utilities.*

***Condition C** - Prior to plat approval, applicant shall obtain an Access Permit, and under the permit, pave the existing graveled access to the parent parcel dwelling as well as construct a paved shared access approach with hot mix asphalt centered on a tentative access easement from Glenwood Drive in conformance with Marion County Standards. If the easement(s) mentioned in Condition A are able to be obtained, the paving of the shared access approach portion of this Condition is moot.*

Access items are typically Engineering Requirements, but have been elevated to Conditions as a matter of timing. Driveways must meet sight distance, design, spacing, and safety standards. PW Engineering Condition A is designed to avoid the creation of a new private lane if unnecessary.

***Condition D** - Prior to plat approval, Applicant shall record a Declaration of Covenants for Road Maintenance Agreement (RMA) regarding any shared access easements.*

The above Condition is in accordance with MCC 17.172.340 whereby a road maintenance agreement for private easements is required to be submitted to the County for review and approval prior to recording the final plat.

Public Works needs to review, approve and sign the RMA prior to recordation. Please contact Public Works Engineering at (503) 584-7714 for details.

**Condition E** - *Prior to plat approval, Applicant shall record a Non-Remonstrance Agreement for future urban frontage improvements along the Glenwood Drive SE frontage.*

The above Condition is in accordance with MCC 16.13.310 whereby a non-remonstrance agreement for future road improvements may be required in lieu of immediate improvements. Urban improvements are anticipated to include sidewalk, curb/gutter, closed-system drainage, and asphalt road widening.

**Condition F** - *Prior to plat approval, design, permit and construct a stormwater collection, conveyance, and attenuation system serving each of the lots.*

Nexus is to meet PW Engineering design standards, and for public safety. Legal outfall is anticipated to be the public stormwater line running along the east property boundary. Please be advised that if the stormwater system is integrated into the access easement, then depending on its functionality, the easement may need to be paved prior to plat approval as opposed to prior to issuance of building permits.

**Condition G** - *On the plat, depict appropriate private drainage easements necessary to accommodate the required private drainage system.*

**Condition H** - *On the plat, depict a 10-foot wide public drainage easement along the eastern property boundary granted to East Salem Service District (ESSD).*

A 5-foot wide public drainage easement runs the length of the east property line, within which lies a 24-inch diameter concrete drainage pipe. The easement will need to be verified by the Applicant's Surveyor. The additional width (5 feet) is necessary to bring the easement in conformance with Marion County Engineering Standards such that access can be gained by ESSD personnel for inspection and any necessary maintenance or replacement.

**Condition I** - *Prior to plat approval, under Marion County permit(s), cause public and franchise utility service laterals to be installed serving the two developable lots.*

This Condition is intended to affect orderly development within the public right-of-way, whereby the intent is for pavement cutting and repair and other excavation to be conducted in a coordinated event that minimizes disruption to the traveling public and also results in a homogenous street repair. Included utilities are anticipated to include potable water, sanitary sewer, natural gas, electric power and fiber optic communication."

LDEP also requested that the following Requirements be included in the decision:

- J. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #97-39R and 98-40R, respectively.
- K. Where stormwater management is required, an application for an On-site Stormwater Drainage Permit accompanied by a storm drainage plan shall be submitted for the site that addresses drainage issues and includes detention elements, existing contours, and how the applicant proposes to discharge roof runoff from the site. Construction of roads, dwellings, and related improvements will increase the amount of stormwater runoff from the subject property. The County generally requires any development 0.5 acres or larger; or where deemed necessary due to other factors such as how close the acreage is to the noted threshold, development density and proximity to a legal outfall, to provide stormwater detention. Storm drainage shall be discharged to a suitable outlet.

LDEP requested the following Advisories be included:

- L. Both a Marion County Work in Right-of-Way Permit and a Utility Permit are required in order to install utilities within County-controlled public right-of-ways.
- M. Note that if the existing dwelling is removed and replaced, it would need to be oriented in a fashion in the future such that access shall be derived internally from the private, shared lane.
- N. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.
- O. Applicant is advised to coordinate with the Marion County Fire Marshall for a designated fire turnaround that, if required, would need to be depicted on the plat.
- P. The City of Salem provides sanitary services.
- Q. The Suburban East Salem Service District provides potable water.

Marion County Assessor's Office provided comments related to taxes on the subject property.

City of Salem commented that sewer permits and annexation agreements will be required.

6. In order to partition land in an RS (Single Family Residential) zone, the standards and criteria in Chapter 16.02.120 of the Marion County Code (MCC) apply:

- A. *Lot Area. The minimum lot area for a single-family dwelling in a subdivision approved after the effective date of the ordinance codified in this title, is 4,000 square feet when located within the Salem/Keizer area urban growth boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)*
- B. *Lot Dimensions. Except as provided in MCC 16.26.800 for planned developments, the width of a lot shall be at least 60 feet; provided, that within the Salem/Keizer urban growth boundary the width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet.*

The applicant's request is to divide a .46 acre parcel into three parcels containing 11,400 square feet, 4,300 square feet and 4,300 square feet each. The proposed lots will exceed the 4,000 square foot minimum lot size requirement within the Salem/Keizer area urban growth boundary. In addition, all parcels will meet the minimum lot width and depth standards. Therefore, the proposal meets the criteria in #6 (A) and (B).

7. 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 **BONITA PL SE** 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.

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

Joe Fennimore  
Director-Planning Division

Date: July 16, 2019

If you have any questions please contact Seth Thompson at (503) 566-4165.

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.