

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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
PARTITION CASE NO. 21-023**

APPLICATION: Application of John Wulf on behalf of JP RE LLC to divide a 0.50 acre parcel into 0.17 acres, 0.16 acres, and 0.18 acres each in a RS (Single Family Residential) zone located at 4140 Durbin Ave SE, Salem. (T7S, R2W, Section 31BD, Tax Lot 2300).

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 **October 2, 2023**. 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:

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 21-023. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. The applicant is advised that a Partition Plat Service Report from a title company will be required upon submission of the final Mylar to the County Surveyor.
3. Parcels ten acres and less must be surveyed.
4. Marion County Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

Condition A – Prior to plat approval, design, permit and construct urban frontage improvements along the Durbin Street frontage to the City of Salem Collector ‘A’ standard.

Condition B – Prior to plat approval, design, permit and construct a stormwater detention system serving all three parcels.

Condition C – Prior to plat approval permit and construct all necessary utility extensions within the public right-of-way to serve the proposed developable lots.

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

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

6. 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.
7. The applicants should contact Salem Public Works to permit sewer connection after completing their annexation agreement.
8. 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.
9. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements (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 **October 4, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 3, 2021** unless further consideration is requested.

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

1. The properties are designated Single Family Residential in the Salem Area Comprehensive Plan and zoned RS (Single Family Residential) by Marion County. The 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 Durbin Ave SE, approximately 240 feet west of the intersection of Durbin Ave SE and Elma Ave SE. The property contains a dwelling, a detached garage, and a small accessory structure. The property is described as Lot 3, Block 3 of the Meadowlawn Tracts subdivision, recorded in the records of Marion County: Book 13 of the Town Plats and Page 19 on April 7, 1939. The property is considered legal for the purposes of land use.
3. Properties in all directions are zoned RS (Single Family Residential) and developed with single-family uses.
4. The applicant proposes to divide a roughly 0.50 acre parcel into three parcels of 0.17 acres, 0.16 acres, and 0.18 acres.
5. Marion County Land Development and Engineering provided the following conditions, requirements, and advisory comments:

ENGINEERING CONDITIONS

Condition A – Prior to plat approval, design, permit and construct urban frontage improvements along the Durbin Street frontage to the City of Salem Collector ‘A’ standard.

Nexus is due to the anticipated increase in vehicular and pedestrian traffic brought about by the addition of two homesites, and in accordance with MCC 16.33.160 and 16.33.320. Anticipated improvements include pavement widening, curb/gutter, sidewalk, shared access apron, closed system drainage and landscape strip. Design shall be by a civil engineer.

Condition B – Prior to plat approval, design, permit and construct a stormwater detention system serving all three parcels.

Stormwater detention is required for 0.5-ac of development or more in accordance with MCPWDS. Please note the threshold for requiring water quality treatment is not met. Design shall be by a civil engineer.

Condition C – Prior to plat approval permit and construct all necessary utility extensions within the public right-of-way to serve the proposed developable lots.

ENGINEERING REQUIREMENTS

- D. Access shall be shared. At the time of application for building permits, an Access Permit will be required for each developable lot.
- E. Transportation System Development & Parks Charges will be assessed at the time of application for building permits.
- F. Show any necessary access and utility easements on the partition plat.

ENGINEERING ADVISORIES

- G. Sanitary sewer service is provided by City of Salem.
- H. Potable water is provided by Suburban East Salem Water District.

City of Salem Planning Division provided comments relating to ensuring that development is not non-conforming upon annexation, including development standards and off street parking, loading, and driveways.

City of Salem Public Works commented that the applicant will need permits from the City of Salem and an Annexation Agreement to connect to sewer. Common line sewer connections are not allowed.

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

Marion County Surveyor’s Office provided the following comments:

- A. Parcels ten acres and less must be surveyed.
- B. Per ORS 92.050, plat must be submitted for review.
- C. Checking fee and recording fees required.
- D. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor’s Office, which may require additional updated reports.

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 proposes to divide an approximately 0.50 acre parcel into three lots. According to the application, the first lot will contain 0.18 acres, the second lot will contain 0.16 acres, and the third lot will contain 0.17 acres. This does not total 0.50 acres but 0.51 acres instead. The applicant submitted a survey completed by Udell Engineering and Land Surveying LLC showing that Parcel 1 will be 100' by 78' and Parcels 2 and 3 will be 100' by 70'. The exact square footage will be determined by the final plat. Moreover, it is clear that all lots can meet the square footage and dimensional requirements. Additionally, all lots in the proposed partition exceed the minimum lot width of 40 feet and lot depth of 70 feet required within the Salem/Keizer urban growth boundary. Therefore, the proposal meets the criteria 6(A) and 6(B) for dividing land in the RS zone.

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.*

All proposed lots will meet the minimum 20 foot frontage requirement. The parcel is relatively flat and therefore the maximum grade is not expected to exceed 12 percent. The applicant is advised that the easement will need to be improved with a paved surface width of at least 20 feet, and adequate sight-distances at intersections with Hager Street will need to be maintained. The easement is only proposed to serve two properties and therefore will not be required to be named. The access standards under MCC 16.33.680 are therefore met.

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.

Brandon Reich
Director-Planning Division

Date: September 17, 2021

If you have any questions please contact Alyssa Schrems 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.