



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: June 20, 2018

Department: Public Works Agenda Planning Date: June 14, 2018 Time required: 10 Min.

Audio/Visual aids

Contact: Joe Fennimore Phone: 503-566-4177

Department Head Signature:

TITLE Receive and consider appeal of hearings officer's decision dismissing the appeal of Adjustment Case (ADJ) 17-002/Mid Valley Community Action Agency, Inc.

Issue, Description & Background The applicant applied for an adjustment to allow a gravel surface driveway and parking area for a Head Start facility on a 5.08 acre parcel in a P (Public) zone located at 4950 Silverton Road NE, Salem. On September 20, 2017, the planning director issued a decision approving the request. On October 5, 2017, that decision was appealed to the Marion County hearings officer. The applicant granted a time extension to the 120 day decision making deadline to try and work out a compromise with the appellant. When no compromise was reached the hearings officer conducted a public hearing on May 23, 2018. The appellant failed to appear and under hearings officer procedural rules if the planning director's decision granting a land use application is appealed and the appellant fails to appear at the hearing the appeal may be dismissed. The hearings officer found that appellants abandoned their appeal and on May 25, 2018, issued an order dismissing the appeal and reinstating the planning director's decision granting the request. On June 8, 2018, the hearings officer's decision was appealed to the board. In the appeal, the appellant states that they unavoidably missed the hearing on May 23, 2018, due to being out of state. The appeal is based on an incomplete inspection summary report for a driveway access permit, not meeting the driveway development standards and the standards for temporary and seasonal gravel parking and loading areas. In conclusion, they state they feel their health is at risk from dust and fumes in the air generated by the gravel surfaces.

Financial Impacts: None.

Impacts to Department & External Agencies None.

Options for Consideration: 1. Accept the appeal and remand the matter back to the hearings officer. 2. Accept the appeal and schedule a public hearing; the suggested hearing date is July 12, 2018. 3. Deny the appeal thereby upholding the hearing officer's decision dismissing the appeal and reinstating the planning director's decision granting the request.

Recommendation: Staff recommends the board deny the appeal, thereby upholding the hearing officer's decision dismissing the appeal and reinstating the planning director's decision granting the request.



MARION COUNTY BOARD OF COMMISSIONERS

## Board Session Agenda Review Form

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List of attachments:

Appeal to the Marion County Board of Commissioners  
Hearing officer's decision dismissing the appeal  
Appeal of planning director's decision  
Planning director's decision

Presenter:

Joe Fennimore

*Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)*

Copies to:

Joe Fennimore - gfennimore@co.marion.or.us

RECEIVED

MATTER OF APPEAL OF DECISION

Case No. ADJ 17-003

18 JUN -8 P2:24

In the matter of: Notice of Decision Adjustment Case No. 17-003 by the Application of Mid-Willamette Valley Community Action Agency, Inc. for an adjustment to allow a gravel surface driveway and an 8,000 square foot gravel parking area on a 5.08 acre parcel in a P (Public) zone located at 4950 Silverton road NE, Salem (T7S; R2W; Section 8CD; tax lot 2500.

We the appellants' unavoidably missed a May 23<sup>rd</sup>, 2018, hearing due to being out of the state. Upon returning at the end of May, we found that the hearing had already taken place, being notified by a written notice from the Marion County Hearing's Officer, Ann M. Gasser. So, I, Lonnie, went to the Marion County Planning Division and found that they had granted Jon Reeves, Executive Director of Mid-Willamette Valley Community Action Agency, Inc., a **180 Day Extension Agreement** in the case without notifying us, so we had no way of knowing that this hearing was going to be coming up at this time. I also went to Marion County Legal Council at 555 Court Street, 5<sup>th</sup> floor, Salem, Oregon and got an audio recording of the hearing. In the audio recording and in the letter received from Ann Gasser, (Section V, paragraph 4) it was stated that "In the time between the appeal and appeal hearing, all involved have been communicating..." We beg to differ there has been no communication or we would have known about the 180 Day Extension Agreement between Marion County and Jon Reeves, Executive Director of Mid-Willamette Valley Community Action Agency, Inc.

In the letter from Ann Gasser, Marion County Hearings Officer, we read (Section VII, Appeal Rights) and decided to appeal the decision based on the following findings.

An incomplete **Inspection Summary Report, Driveway Access, Permit#: 555-17-000217-DA-01**, submitted by Applicant: Mid-Willamette Valley Community Action Head Start. Why wasn't this permit completed!

We also have reviewed Marion County Codes, specifically titled: **16 Urban Zoning** and found the parking lot and driveway do not comply to any of those standards.

In section **16.30.150 Driveway Development Standards, paragraph B:** the surface of driveway shall be pavement provided if the street is curbed and paved like Silverton Road is.

Also, in section **16.30.160 Temporary and seasonal gravel-surfaced parking and loading areas, paragraph B: 1.** A seasonal permit for parking shall be granted for only that period, not to exceed six months in any 12 month period, as is necessary to meet a genuine need for gravel parking and may be renewed annually upon a new adjustment application. (The school is basically open all year long)

**6.** No gravel parking or loading area shall be permitted within 500 feet of any residential zone. They built this driveway with no buffer zone at all and the main parking area is only 50 feet from the property line.

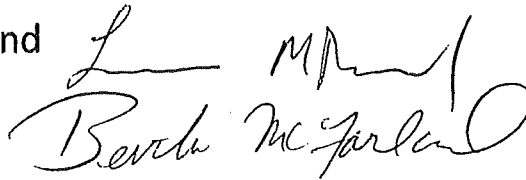
**Conclusion:**

We can't understand why we must be living in this dust bowl created by Marion County who built the driveway for Mid-Willamette Valley Community Action Agency, Inc. We also have spoke with John Braun, our neighbor and adjoining property owner of 3365 Cordon Rd. NE, and 3355 Cordon Rd NE, Salem, Oregon, 97305. He also unavoidably missed the hearing. He is also very, very tired of the dust. We have both lived on these properties for decades and cannot figure out how this is

acceptable. Our health is at risk with all of these particulates, inexhaustible blooms of dust and fumes that travel in the air and onto us while we are maintaining our properties. We have much landscape, trees, gardens, vehicles, homes to tend to as does our neighbor. Is this a fair and just situation to bring on us? "It's easier to ask for forgiveness than it is to argue for permission."

Submitted on 6/8/2018

Lonnie and Bertha McFarland  
4912 Silverton Road NE  
Salem, Oregon 97305  
503-585-1184

Handwritten signatures of Lonnie and Bertha McFarland. The signature for Lonnie is a simple, stylized 'L' followed by 'McFarland'. The signature for Bertha is more elaborate, starting with a large 'B' and ending with a flourish.

[lonniemcfly@msn.com](mailto:lonniemcfly@msn.com)  
[maemcfarland@hotmail.com](mailto:maemcfarland@hotmail.com)

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the ) Case No. ADJ 17-003  
Application of: ) Clerk's File No.  
MID WILLAMETTE VALLEY COMMUNITY ) **Adjustment**  
ACTION AGENCY, INC. )

ORDER

**I. Nature of the Application**

This matter comes before the Marion County Hearings Officer on appeal of the Planning Director's approval of the application of Mid Willamette Valley Community Action Agency, Inc. for an adjustment to allow a gravel surface driveway and an 8,000 square foot gravel surface parking area on a 5.08 acre parcel in a P (Public) zone at 4950 Silverton Road NE, Salem, Marion County, Oregon (T7S; R2W; Section 8CD; tax lot 2500).

**II. Relevant Criteria**

The standards and criteria relevant to this application are found in the Salem Area Comprehensive Plan (SACP) and the Marion County Code (MCC) title 16, especially chapters 16.16, 16.30 and 16.41.

**III. Public Hearing**

A public hearing was opened on this application on May 23, 2017. The following persons appeared at hearing and provided testimony on the application:

1. Brandon Reich Marion County Planning Division
2. Alan Haley Director, Marion County Public Works Department
3. Jon Reeves Executive Director, Mid Willamette Valley  
Community Action Agency, Inc.

Appellants McFarland did not appear at the hearing.

The following documents were submitted and entered into the record as exhibits:

- Ex. 1 Aerial photograph of subject property
- Ex. 2 Aerial photograph of the area where the driveway is to intersect with Silverton Road NE
- Ex. 3 Revised site plan showing new access and driveway alignment

No objections were raised to notice, jurisdiction or conflict of interest.

#### **IV. Findings of Fact**

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The property is designated Community Service in the SACP and zoned P. The purpose of the designation and zoning is to provide areas appropriate for specific public and semipublic uses and ensure their compatibility with adjacent uses.
2. The property is on the southeast side of Silverton Road at its Cordon Road intersection. The property contains the former Middle Grove School which now houses the Mid Willamette Valley Community Action Agency. Existing development includes the former school building, accessory structures and existing gravel parking served by a driveway on Cordon Road.
3. Surrounding properties to the south are zoned UT-5 (Urban Transition-Five Acre Minimum) and contain dwellings. Property to the east is zoned RM (Multiple-Family Residential) and contains an apartment complex. Property to the north across Silverton Road is zoned RS with single family dwellings. Property to the east across Cordon Road is zoned EFU (Exclusive Farm Use) and is in agricultural use.
4. Applicant proposes an adjustment to allow construction of a new gravel surface driveway and 8,000 square feet of additional gravel surface parking. As proposed, the driveway will enter the property from its south corner on Silverton Road and run east to connect to the existing roadway and parking area, and replacing the Cordon Road driveway access.

#### **V. Additional Findings of Fact and Conclusions of Law**

1. On September 20, 2017, the Planning Director/Zoning Administrator approved the subject application. On October 5, 2017, Lonnie and Bertha McFarland timely appealed the Planning Director's decision. An appeal hearing was held on May 23, 2018. Certification of mailing for the hearing notice shows appellants were provided proper notice of the hearing. Appellants failed to show at the hearing and did not notify the hearings office in advance.
2. Under hearings officer procedural rules, III(B) (5) (b), if a hearing is for an appeal of a Planning Director's decision granting a land use application, and the appellants or appellants' representative do not appear at hearing, the appeal may be dismissed and the Planning Director's decision shall become effective at expiration of the appeal period in the hearings officer's order.
3. Dismissal is discretionary. In this case, applicant's executive director explained that applicant had been working with appellants to try and address their concerns. Applicant modified its proposed entrance, directing it away from most of appellants' property boundary to provide more of a

buffer by distance and allowing existing trees to be retained for visual screening. The Public Works director testified about the redesigned driveway avoiding tree removal. The director testified that the new access is in use and Cordon Road access is now closed.

4. In the time between appeal and appeal hearing, all involved have been communicating and agreed on some areas of compromise. Based on the record as a whole it appears appellants decided not to proceed with the appeal. The appeal is dismissed and the Planning Director's decision will be effective at the end of the appeal period in this order.

#### VI. Order

It is hereby found that appellants abandoned their appeal, therefore, the **APPEAL IS DISMISSED** and the Planning Director's approval will automatically become effective at the end of the appeal period for this order.

#### VII. Appeal Rights

An appeal of this decision may be taken by anyone aggrieved or affected by this order. An appeal must be filed with the Marion County Clerk (555 Court Street NE, Salem) by 5:00 p.m. on the 11<sup>th</sup> day of June 2018. The appeal must be in writing, must be filed in duplicate, must be accompanied by a payment of \$500, and must state wherein this order fails to conform to the provisions of the applicable ordinance. If the Board denies the appeal, \$300 of the appeal fee will be refunded.

DATED at Salem, Oregon, this 25<sup>th</sup> day of May 2018.



Ann M. Gasser  
Marion County Hearings Officer



CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Jon Reeves  
Mid-Willamette Valley  
Community Actions Agency  
2475 Center St NE  
Salem OR 97301

Pamela Cole  
City of Salem  
Community Development  
Department  
555 Liberty St SE Room 305  
Salem OR 97301

Lonnie McFarland  
4912 Silverton Road NE  
Salem OR 97305

Friends of Marion County  
PO Box 3274  
Salem OR 97302

Agencies Notified

Planning Division

(via email [breich@co.marion.or.us](mailto:breich@co.marion.or.us))

(via email [gfennimore@co.marion.or.us](mailto:gfennimore@co.marion.or.us))

Public Works Engineering

(via email [jrasmussen@co.marion.or.us](mailto:jrasmussen@co.marion.or.us))

Building Inspection

(via email [deubanks@co.marion.or.us](mailto:deubanks@co.marion.or.us))

Tax Office

(via email [adhillon@co.marion.or.us](mailto:adhillon@co.marion.or.us))

Code Enforcement

(via email [bdickson@co.marion.or.us](mailto:bdickson@co.marion.or.us))

Public Works

(via email [ahaley@co.marion.or.us](mailto:ahaley@co.marion.or.us))

East Salem Suburban Neighborhood Association

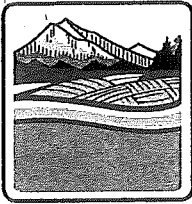
(via email [chair@essnaSalem.org](mailto:chair@essnaSalem.org))

by mailing or emailing copies as specified above. I further certify that said mailed copies were placed in sealed envelopes, addressed as noted above, and deposited with the United States Postal Service at Salem, Oregon, on the 25<sup>th</sup> day of May 2018, and that the postage thereon was prepaid.



\_\_\_\_\_  
Joanna Ritchie

Secretary to Hearings Officer



**Marion County**  
OREGON

# APPEAL OF PLANNING DIVISION DECISION

Marion County Planning Division  
5155 Silverton Rd. NE  
Salem, Oregon 97305  
(503) 588-5038

**Fee: \$250**

NAME(S): Lonnie + Mae McFarland	ADDRESS, CITY, STATE, ZIP 4912 Silverton Rd. NE Salem, OR 97305
DATE SUBMITTED: Oct. 5 2017	APPLICATION CASE NO: AJT 17 - 003

**Do not double-side or spiral bind any documents being submitted**

**Notice of Appeal: Every notice of appeal should contain:**

1. How the decision is factually or legally incorrect; or
2. Present new facts material to the decision; or
3. The specific reasons for the appeal.

I/we are filing this appeal because (attach additional pages if needed):

See Attachment 5 page

**FOR OFFICE USE ONLY:**

Appeal accepted by: LM Date: 10/5/17

Case Number:

- Filing fee  
 File attached

Marion County Planning Division  
**Appeal of Planning Division Decision**

**Attention: hearings officers**

Regarding: Notice of Decision Adjustment Case No. 17-003; a letter we received by mail on Friday, 9/22/2017.

We would like to request reconsideration at this time, 9/23/2017, to resurface gravel driveway with **asphalt** at a date ASAP rather than date stated in Notice of Decision Affidavit.

\*We object and disagree with the following Marion County Planning Director's decision on the following:

**CONDITIONS:**

1) The driveway and parking area are to be paved on a date no more than 5 years from the date of this decision becoming final.

**FINDINGS AND CONCLUSIONS:**

**Paragraph 6, section a and b**

(a) The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and

(b) The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity.

**Paragraph 7:**

The proposal is not for any additional development. It is to accommodate the existing use of the property and should have little or no impact on adjacent uses. The health and safety of persons working and residing in the area should be improved by relocating the Cordon Road driveway to a safer location on Silverton Road. The applicant was able to get money to expand the kitchen, however, there was not enough to cover paving of the new driveway and parking area. Allowing the gravel surface in lieu of paving at this time is the minimum necessary to accommodate the driveway relocation. The purpose of the intent of requiring driveways and parking areas in the urban growth boundary to be paved is to accommodate heavier traffic volumes. The existing parking lot and driveway is gravel and has adequately served the use, therefore, its relocation should also adequately serve the facility.

We currently live at 4912 Silverton Rd, Salem, Oregon 97305. We live in a residential home just off Silverton road, with two apartment complexes on one side, two residential homes on the other side, as well as the Mid-Willamette Valley Community Action Facility/Head Start Program adjacent to our property.

\*1)How the decision is factually or legally incorrect; \*2) Present new facts material to the decision:

**Please Note: We were never mailed any Project Notification letter prior to this letter.** Reason being, we were told “...it's not a land use issue” by Alan Haley, Public Work's Director, and that is why we were never mailed a letter. However, the first paragraph on this Notice of Decision letter, the first sentence states a “land use proposal has been submitted for a property near where you live...”.

Recently, within the last two weeks, Marion County installed a new gravel surface driveway for the Mid-Willamette Valley Community Agency/Head Start Program for the purpose of accommodating a “new commercial kitchen” and “to allow for heavier traffic volumes.” Thus, the county felt the existing driveway on Cordon road needed to be relocated to a new location to accommodate the expansion of this project as well as for safety concerns. At first knowledge was aug.23 when we noticed men in orange vests looking at our trees and such so I talked to them one said he was project manager for marion county and they would be taking my trees out and running a new roadway thru my drive way and I ask why he said they traded a kitchen permit for the school for this new roadway I was dumbfounded. To this date, the new gravel surface roadway has now been installed on the southwest corner of Silverton road, which also runs down the length of the cyclone fence line to the east,the roadway is only two inches from our property line in fact gravel has already spilled over to our property it is a foot thick, giving no room for maintenance or future enhancements,or weed medidgation giving us direct view of the driveway in front of our homes now.

On Friday, 9/22/2017, we received a letter of NOTICE OF DECISION. We phoned Marion County to inquire why we were just now being notified (after the fact) and that the gravel surface driveway that was “going to be built would not need to be resurfaced with asphalt at this time”, but that this could be done at a later date; **when in actuality the roadway has already been installed, 2 weeks prior to us receiving this letter. Construction the of gravel roadway is approximately “30-40%” dirt because it packs better.**

Prior to receiving the Notice of Decision letter, we had a verbal conversation with the Director of Mid-Willamette Valley Community Action, John Reeves, who at that time stated 'the agency has no available funds to apply asphalt to the gravel surface driveway at this time, and there will probably never been funds available in the future'.

**So, we feel, since the decision to move the driveway to another site to accommodate the new commercial kitchen's needs, heavier traffic volumes, safety issues, and the fact that the driveway has already been installed, The responsible party for paving**

**the gravel roadway should be Marion County; after all, they built it. Alan Haley, Public Works Director, told us verbally that they did not need to write us a letter of any kind because this was not a Land Use Decision to install this roadway. We then questioned if any traffic or environmental studies were done prior to planning this project, he said, "No, it was not necessary."; they built it before the proposed date stated in Adjustment Case No. 17-003. We also feel the issues outlined in Our Facts, Findings and Conclusions paragraph of this letter need to be addressed at this date and time.**

An example of wasted time and effort in doing the right thing, is some years ago when we applied for a minor lot line adjustment, the county told us that access to the adjoining parcel would have to be paved before we could get the lot line adjustment approved. After many, many years and thousands of dollars later, we were able to get the lot line adjustment, on the contingency that if it were ever going to be built on, it would have to be paved at that time. We never planned to build on the second parcel. Point being, why does this project have a different standard than the average tax payer. Discrimination?

### **OUR FACTS, FINDINGS and CONCLUSIONS:**

\*3) Specific Reasons for the appeal.

#### **Health and Environmental Impact of Gravel Surface Driveway Affecting Residents**

We, the people of this community, feel it will have a significant adverse affect on the health, well being, and safety of residents residing and working in this immediate vicinity of the newly installed driveway. The impact to relocate the driveway from one site to another has already impacted the health and safety of the residents currently living adjacent to the driveway, and will have continual impact in the future years to come.

The health and environmental impact of the people living & working next to/vicinity to the gravel surface driveway will be affected by **1)** an increased daily barrage of additional traffic noise; **2)** increased and heavier traffic volumes entering and exiting an already busy driveway, impacting existing residents already using driveway off Silverton Rd; **3)** increased diesel fumes from school buses, delivery trucks, servicing trucks for the commercial kitchen and Head Start Program;**4)** increased exhaust fumes from 50 plus additional employee/public vehicles passing through onto new existing driveway; **5)** exhaustible amounts of dust particulates stirred up daily by vehicles traveling on gravel driveway; **6)** additional air pollution, as well as prevailing winds blowing dust off the surface of the roadway traveling toward our homes, vegetation, buildings, vehicles and equipment; **7)** contaminated fine layers of dust and run off from the gravel driveway, causing damage to nearby existing, evergreen trees, income producing organic fruit bearing trees, plant vegetation and vegetable gardens (we have

12 fruit trees, raspberries and blueberries and annual flower and vegetable gardens; 8) increased hazard to new and preexisting serious health complications toward residents living directly next to or in approximate vicinity of the gravel driveway; 9) increased traffic issues and safety of residential “children playing and bicycling” around surrounding driveway vicinity; 10) increased mole and gofer population migrating over to residential areas; 11) water well contamination; 12) decreased quality of life for nearby residents; and 13) decreased property value.

These are all very serious and notable concerns which greatly impact the livability of the residents working and living daily with the new dust contamination. The children at Head Start Program and employees working in this vicinity also will be affected. It would be in the best interest to have samples taken from the roadway and tested for environmental contaminants which could be a health hazard.

### **Additional and Notable Concerns:**

#### **Water Quality:**

The water quality of residential well(s) close by could be harmed; a potential for impairment of water quality next to nearby site, including harm to the aquifer.

#### **Plant Habitation:**

Income producing fruit trees and vegetation will be affected. The dust can also pollute nearby surface waters and stunt crop growth by shading and clogging the pores of the plants and trees.

#### **Health Hazards and Physical/Mental Quality of Life:**

One major and obvious problem associated with all unpaved roads is dust. The chronic dust emissions creates a public nuisance for those people unfortunate enough to live near a gravel road, such as the newly installed driveway installed by Marion County for the Mid-Willamette Valley Community Action Agency/Head Start Program. To residents living/working along unpaved roads the airborne dust can penetrate their homes causing a nuisance and health problems such as hay fever, asthma, allergies, upper respiratory compromises, COPD, (my husband Lonnie has COPD and heart condition) lung ailments, and a whole host of other physical ailments. Dust can also be a conveyor of other health diseases as well.

What about the health and safety issues that will impact the Head Start children and the employees staffing these children? The playground areas are in close proximity of the new roadway as well as is their vegetable gardens. Anyone of these people with health issues could be compromised.

#### **Surrounding Residential Habitation:**

In addition, nearby homes, outside buildings, barn, vehicles and vegetation will be

covered with a fine layer of perlite or mica dust stemming from dust stirred up from the flow of vehicle traffic. The abrasive particles can also greatly increase the wear and tear on the moving parts of vehicles, mowers and farm equipment. In addition, increased exposure to the dust particles includes additional cleanup and maintenance for the homeowners to their outside exterior of homes, buildings, and vehicles, which are all in very close proximity of the gravel roadway.

Food for Thought and example of the impact this will have for residents: "For every vehicle traveling one mile of unpaved roadway once a day, every day for one year, one ton of dust is deposited along a 1,000 ft. corridor centered on the road."

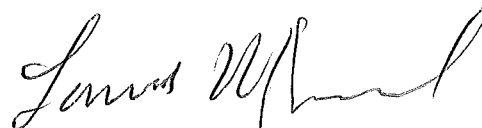
Our hope and prayer is that the new additional information provided in this letter of our objection and appeal, lends thought provoking insight, compassion, and a thorough understanding of what further lies ahead for the residents living and working in this vicinity. Those who are in authority and who are making final decisions do impact the lives of others. Lets be considerate and compassionate for the neighbors that live and work next door to this newly located gravel, unpaved roadway approximately 700 feet long and 8,000 square feet parking already, who have lived in this residential neighborhood long before the gravel driveway even came into existence near their homes. Surely, stepping into anther's shoes can give a different perspective.

When one reads the list of factors that could have, and should have been considered in the first place when deciding the relocation of the driveway and the decision to pave later than sooner (5 years down the road), it does not appear to act in the best interest of the public's welfare, health or safety at this time. Actually, it feels like an insult to the injury at this point, especially since the new roadway has already been installed; public notice mailed out two weeks' after the fact. The reality at this point appears to be ....too little, too late...that's life...live with it.

Living through this experience puts a lump in our throats and a sunken feeling in our hearts. We have experienced feelings of mental, emotional and physical stress, along with hopelessness and depression all while going through this ordeal of the road relocation and the gravel surfacing of it. We never choose to buy, live or work by a gravel roadway, nor have a busy roadway right in front of our home. The landscape changes have adversely affected our lives already and will in the future.

Written: 9/27/2017

Lonnie and Bertha McFarland  
4912 Silverton Road NE  
Salem, Oregon 97305



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  
ADJUSTMENT CASE NO. 17-003**

**APPLICATION:** Application of Mid-Willamette Valley Community Action Agency for an adjustment to allow a gravel surface driveway and an 8,000 square foot gravel parking area on a 5.08 acre parcel in a P (Public) zone located at 4950 Silverton Road NE, Salem (T7S; R2W; Section 8CD; tax lot 2500).

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

**EXPIRATION DATE:** This decision is valid only when exercised by **October 5, 2019** unless an extension is granted. The effective period may be extended for one year 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.**

**CONDITIONS:**

1. The driveway and parking area are to be paved on a date no more than 5 years from the date of this decision becoming final.

**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 deny the application. Anyone who disagree 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 5, 2017**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **October 6, 2017** unless appealed.

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

1. The property is designated Community Service in the Salem Area Comprehensive Plan. The purpose of this designation and the corresponding P (Public) zone is to provide areas appropriate for specific public and semi-public uses and ensure their compatibility with adjacent uses.
2. The property is located on the southeast side of Silverton Road at its intersection with Cordon Road. It contains the former Middle Grove School which now houses the Mid-Willamette Valley Community Action Agency. Existing developments include the former school building and accessory structures as well as existing gravel parking served by a driveway on Cordon Road.
3. Surrounding properties to the south are zoned UT-5 (Urban Transition) and contain dwellings. Property to the east is zoned RM (Multiple-Family Residential) and contains an apartment complex while property to the north is zoned RS with single family dwellings. Property to the east across Cordon Road is zoned EFU (Exclusive Farm Use) and in agricultural use.



4. The applicant proposes an adjustment to allow construction of a new gravel surface driveway and an additional 8,000 square feet of gravel parking area. As proposed, the driveway will enter the property from its south corner on Silverton Road and run east along the southern property to eventually connect to the existing roadway and parking area. Once this access is developed, the driveway on Cordon Road will be removed.
5. Public Works Land Development and Engineering Permits (LDEP) commented on engineering advisories that are not part of the land use decision and available for review in the planning file.

City of Salem comments that this property is located within the Urban Growth Boundary and may be annexed in the City of Salem in the future. The Salem Revised Code would not allow gravel surface driveways or gravel parking areas without conditional use approval, and our condition would typically limit the duration to five years. If the adjustment is approved, we would ask a condition be placed on the decision to require the driveway and parking area to be paved on a date no more than 5 years from the decision date and would ask for the County to enforce that condition.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. These include:
  - (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
  - (b) *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
  - (c) *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*
  - (d) *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.*
7. The proposal is not for any additional development - it is to accommodate the existing use of the property and should have little or no impact on adjacent uses. The health and safety of persons working and residing in the area should be improved by relocating the Cordon Road driveway to a safer location on Silverton Road. The applicant was able to get money to expand the kitchen, however, there was not enough to cover paving of the new driveway and parking area. Allowing the gravel surface in lieu of paving at this time is the minimum necessary to accommodate the driveway relocation. The purpose and intent of requiring driveways and parking areas in the urban growth boundary to be paved is to accommodate heavier traffic volumes. The existing parking lot and driveway is gravel and has adequately served the use, therefore, its relocation should also adequately serve the facility.
8. In their comments, the City of Salem requested that a condition be included that requires the driveway and parking area to be paved on a date no more than 5 years from the decision date. Since the property will ultimately be annexed into the City of Salem, their request will be made a condition of approval.
9. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Planning Director

Date: September 20, 2017

If you have any questions regarding this decision contact Joe Fennimore 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.