

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
CONDITIONAL USE CASE NO. 18-054**

APPLICATION: Application of the Greek Orthodox Mission of Salem, Oregon, on property owned by Sandra Fetsch and Larry Unruh, for a conditional use to establish a religious organization on a 4.38 acre parcel in an UT-5 (Urban Transition - 5 Acre Density) zone located at 4986 Herrin Road NE, Salem (T7S: R2W; Section 8D; Tax lot 800).

DECISION: The Zoning Administrator for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions

EXPIRATION DATE: This conditional use permit is valid only when exercised by **October 24, 2020**. 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 use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact 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 obtain approval for all permits required by the Marion County Building Inspection Division.
2. Prior to development of the property the applicant shall submit, for review and approval by the Zoning Administrator, a detailed site plan showing how the development will comply with all applicable development standards contained in the code, including paving of the parking area, outdoor lighting and landscaping. The plan shall significantly conform to the site plan submitted with the proposal, however, minor variations are permitted.
3. 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 building permit issuance, dedicate a 34-foot public right of way (R/W) half-width on Herrin Road, a 60-foot half-width on Cordon Road, and a 40-foot NE property corner radius.*

***Condition B** – Prior to building permit issuance, record a Non-Remonstrance Agreement for a proportionate financial contribution toward the future design and construction of urban frontage improvements on Herrin Road to meet the county Urban Collector standard.*

4. The minimum setback for the proposed building is 25 feet from any property line.
5. The minimum setback for off-street parking or loading areas is 15 feet from any residential use or zone.

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

6. The church shall operate as described in the application material. Any significant changes require prior approval by the Planning Director.

7. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
8. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

9. 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.
10. 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 Zoning Administrator. If there is any doubt that the application conforms with adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a 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 in the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **October 24, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 25, 2018** 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 Developing Residential in the Salem Area Comprehensive Plan. The purpose of this designation and the corresponding UT-5 (Urban Transition, 5 Acre Density) zone is to protect for future urban use properties that do not have available urban facilities. Transitional uses may be allowed when they do not interfere with the efficient, later use of the land for planned urban uses.
2. The property is located on the southwest corner of Herrin Rd NE and Cordon Rd NE. The property contains an existing septic system and is currently undeveloped.
3. Adjacent properties to the north, south and west are zoned UT-5 and mostly in residential and agricultural use. Property to the west is developed with an elementary school. Adjacent properties to the northeast are outside the Urban Growth Boundary, zoned EFU (Exclusive Farm Use) and in agricultural use. Property to the southeast is zoned P (Public) and contains the Marion County Fire District No. 1 station and the Marion County Public Works office building, shops and equipment yard.
4. The applicant proposes to establish a church and hall/multipurpose building on the property.
5. **Public Works Land Development and Engineering Permits (LDEP)** commented:

“The applicant met with Marion County Public Works Land Use Development and Engineering Permits personnel to discuss the potential for reservation of a portion of the subject property to serve as an eventual

alternate access on behalf of properties located south of the subject property, in general accordance with the intent of the *1981 Cordon Road Limited Access Resolution*. The Applicant has indicated they are not opposed to recording a Non-Remonstrance Agreement that requires such a reservation for access, provided that the properties it would potentially be serving do not develop as multi-family use, and furthermore the burden of cost to develop the alternate access is either upon Marion County or the property owners to which it would serve.

ENGINEERING CONDITIONS

Condition A – Prior to building permit issuance, dedicate a 34-foot public right of way (R/W) half-width on Herrin Road, a 60-foot half-width on Cordon Road, and a 40-foot NE property corner radius.

Nexus is to satisfy MCC 16.27.210(E)(4,6), 16.40.20(E), 16.40.30(J) and 16.40.40(C), which will facilitate roadway capacity and safety urban improvements. It is appropriate that with commercial level development of the property that sufficient R/W be in place. Note that additional R/W may be needed by the appropriate governing jurisdiction in the future to accommodate widening to Cordon Road that will necessitate bridge widening/replacement.

Condition B – Prior to building permit issuance, record a Non-Remonstrance Agreement for a proportionate financial contribution toward the future design and construction of urban frontage improvements on Herrin Road to meet the county Urban Collector standard.

Nexus is development of the property within the City of Salem UGB and the need to provide roadway capacity and safety improvements [MCC 16.40.20(E) and 16.40.30(J)]. Justification for deferring immediate improvements is to align, timing-wise, with a future County capital project to add a left turn lane at Cordon Road that will also trigger the replacement of the timber bridge. The relative financial participation amount will be based on length of parcel road frontage proportional to the overall standard Urban Collector portion of the future project.

ENGINEERING REQUIREMENTS

- C. As discussed and agreed upon with the Applicant, prior to building permit issuance, a Non-Remonstrance Agreement shall be recorded for a presumed 25-foot wide access reservation from a shared access at Herrin Road through the subject property for direct access to the residential properties located to the south of the subject property to uphold the goals of the Marion County 1981 Resolution in the Matter of Restricted Access on Cordon Road.
- D. In accordance with MCC 11.10, driveways must meet sight distance, design, spacing, and safety standards. The following numbered points pertain to access:
 - 1) A single access to Herrin Road will be allowed.
 - 2) The access approach to Herrin Road may in the future be shared with alternate access to the residential properties located to the south, per PW Engineering Requirement C.
 - 3) A driveway “Access Permit” for access to the public right-of-way will be required upon application for building permits.
 - 4) The access approach shall be paved with hot mix asphalt.
- E. Prior to application for building permits, a civil engineering site plan shall be submitted to MCPW Engineering for review and approval. The plan shall also depict an access reservation for the benefit of the two residential properties located to the south.
- F. Development of 0.5 acres or more having building and parking area(s) will trigger the requirement for stormwater detention. Water quality treatment will also be required at 1.0-acre or more of development.
- G. A Marion County Erosion Prevention & Sediment Control (EPSC) Permit will be required for ground disturbances of 1.0 acre or more and/or for work within 50 feet of the East Fork Little Pudding River (EFLPR). Marion County is now delegated by the Oregon DEQ to administer the NPDES 1200-CN

program within the defined limits of the Stormwater Management Area, within which the subject property is located.

- H. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #97-39R.

ENGINEERING ADVISORY

- I. Development of the subject property should not impact the EFLPR, which traverses the eastern portion of the subject property.”

City of Salem commented that water and sewer is not available to the property.

Marion County Building Inspection commented that permits will be required.

Marion County On-Site Sewage commented that septic permits will be required.

Marion County Fire District #1 commented the applicant 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.

6. All conditional uses are subject to the general criteria in MCC16.40.020:

- (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*
- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*
- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*
- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*
- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

7. A religious organization is listed as a conditional use in the UT zone. The underlying comprehensive plan designation of the property is residential and religious organizations are allowed in residentially zoned areas. Based on the applicants’ site plan, there appears to be adequate room to locate the church, well, septic system and parking on the property. The property appears to be suitable for the proposed use and because of religious organizations’ general compatibility with residential uses, there should be little to no negative impact to surrounding residential neighbors. There is no evidence that the use will have a significant adverse effect on air or water quality. Marion County provides police protection and Marion County Fire District #1 provides fire protection. The applicant must coordinate with the City of Salem, Marion County Building Inspection and Marion County Public Works regarding provision of public services and utilities. The proposal can be conditioned to meet this criterion.

8. In addition to these general criteria, in order to approve a church in a UT zone the specific criteria in MCC 16.13.030 must be satisfied:

- (a) *The use will not increase traffic beyond the capacity of existing roads.*
- (b) *If the use will remain after the area is urbanized it will be located in such a manner that any significant unused portion of the property has adequate development options.*
- (c) *The use and related structures and improvements meet the development standards of the most restrictive zone consistent with the applicable comprehensive plan designation; or the city concurs and, if the city requests, conditions are imposed that require the structures and improvements to be brought into conformance with city zoning regulations upon annexation.*

(d) *The most restrictive zone used in the applicable Comprehensive Plan designation lists the proposed use as a permitted or conditional use; or the city concurs and, if the city requests, conditions are imposed which require that the use be brought into conformance with city zoning regulations upon annexation.*

9. There is no indication that the roadway system cannot support the proposed use. LDEP commented on requirements that would ensure any impacts to the roadway are minimized by required improvements. Based on the size of the property and the proposed development on the property, there is not a significant portion of the property which is unused and would be affected by this proposal. Religious organizations are allowed in the Single-Family Residential zone, the most restrictive zone implementing the Developing Residential comprehensive plan designation. Religious organizations are allowed in the RS zone MCC 16.02 subject to the standards in the RS zone and the use standards in MCC 16.26.600 which include:

Religious organizations shall meet the following use and development standards:

A. *Side and Rear Yards. Minimum of 25 feet in or abutting every residential zone or use.*

The proposed structure will meet the minimum 25 feet from all property lines. This standard is met.

B. *Landscaping. All required yard areas adjacent to streets or property in a residential zone not lawfully developed for buildings, structures, parking, loading or driveways shall be landscaped as provided in Chapter 16.29 MCC.*

The applicant proposes to maintain this area as landscaped. This standard is met.

C. *Off-Street Parking. No off-street parking or loading area shall be permitted within 10 feet of a residential zone or use.*

The site plan submitted by the applicant does not propose any parking within 10 feet of a residential zone or use. This standard is met.

D. *Screening of Off-Street Parking. Where any portion of an off-street parking area other than a garage is within 15 feet of a lot zoned or used for residential purposes, the perimeter of the parking area facing such residential zone or use shall be screened by a sight-obscuring fence, wall or hedge.*

The site plan submitted by the applicant does not propose any parking within 15 feet of a residential zone or use. This standard is met.

E. *Street Access. Unless permitted by the county, only one vehicle access driveway per street frontage shall be permitted in a residential zone, or on a local street in any other zone abutting a residential zone. Where a parking area is on property having frontage on a collector or arterial street, access shall be limited to such collector or arterial unless alternate access is required by the county.*

The applicant proposes only one access to the parcel. This standard is met.

F. *Other Related Uses. Schools, child day care services, kindergartens, meeting facilities for clubs and organizations, and other similar uses which are not operated primarily for the purpose of religious instruction, worship, government of the church, or the fellowship of its congregation shall be permitted only to the extent to the activity is otherwise permitted in the zone. Storage of buses used to transport the congregation is permitted if buses are not parked closer than 20 feet to a lot in a residential zone.*

The applicant's proposal is for church services only with no related uses identified. Future related uses will be subject to the standard.

10. In addition, the UT zone MCC 16.13.100 states that "the additional standards and regulations referenced in Chapters 16.24 and 16.26 through 16.34 MCC (generally landscaping, parking, paving, and signage) apply to all lots, structures and uses unless indicated otherwise. No structure or use can be approved until all requirements in

this chapter have been satisfied.” The applicable standards will be required to be met prior to issuance of any building permits associated with the proposed activity.

11. Based on the above findings, it has been determined that the applicants’ request meets all applicable criteria to establish a religious organization and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: October 9, 2018

If you have any questions please contact Patty Dorr 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.