

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  
PARTITION CASE NO. 18-004**

**APPLICATION:** Application of KBC Homes LLC to divide a 14,100 square foot parcel into two parcels of 8186 square feet and 5966 square feet each in a RS (Single Family Residential) zone located at 284 45<sup>th</sup> Street SE, Salem (T7S; R2W; Section 31AA; tax lot 6100).

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

**EXPIRATION DATE:** This approval is valid only when the final partitioning plat is recorded by **March 2, 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 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) 588-5036) and shall contain the notation that the survey is the result of Partition Case 18-004. 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.

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

3. The partition plat shall be recorded.
4. 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.

**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 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.

**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 **March 2, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 3, 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 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 low urban densities.
2. The property is located on the northeast corner of 45<sup>th</sup> Av SE and Mahrt Av SE. The property contains an existing dwelling. The property was created in its current configuration by deed recorded prior to September 1, 1977 and is considered a legal parcel for land use purposes.
3. The entire area surrounding the parcel is zoned RS and in residential development.
4. The applicant proposes to divide a 14,100 square foot parcel into two parcels of 8,186 square feet and 5,966 square feet each. The existing dwelling will remain on the most western parcel.
5. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Surveyor commented: "Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fee required. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports."

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

Marion County Building Inspection commented that permits are required for new construction.

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 14,100 square foot parcel into two parcels of 8,186 square feet and 5,966 square feet each. One of the proposed lots will be smaller than the 6,000 square foot minimum in the Marion County Code, however, in Partition Case P/ADJ 16-007 the Hearings Officer ruled that the minimum lot size for a partition in the RS zone in the Salem UGB is 4,000 square feet, not 6,000 square feet. The proposed lots exceed the 4,000 square foot minimum lot size and both parcels meet the minimum lot width and depth standards. The new parcel will have frontage on Marht Av SE and the existing parcel has frontage on 45<sup>th</sup> Av SE. The proposal meets criteria.

- 7. 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: February 15, 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.