

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. 18-009**

APPLICATION: Application of Jose Antonio Franco Torres to divide a 0.74 acre parcel into three parcels containing 8,057 square feet, 9,459 square feet and 10,712 square feet each in an UD (Urban Development) zone located in the 3,300 block of Hollywood Drive NE, Salem. (T7S; R2W; Section 18AB; tax lot 5600).

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 **May 14, 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 drainfield 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) 588-5036) and shall contain the notation that the survey is the result of Partition Case 18-009. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed). **This shall be accomplished prior to issuance of any building permit(s) on the resulting parcels.**
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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

Condition A – *On the plat, dedicate a 30-foot half-width along the Hollywood Drive frontage for public right-of-way purposes. Also show a minimum 4-foot PUE behind the R/W [MCC 16.33.260].*

Condition B – *Prior to plat approval, remit a payment in-lieu-of construction to Marion County in a proportional amount for the design and construction of Hollywood Drive frontage improvements to Marion County and City of Salem standards for an urban local street, to include road widening to provide a 17-foot half-width, PCC curb/gutter, driveway approaches and sidewalk, closed drainage system, and landscape strip along the subject property frontage that MCPW Capital Projects Engineering will be undertaking during Year 2020/21 as a subsidized Federal Aid Project [MCC16.33.160, 16.33.320].*

4. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System, has named the proposed private access easement **FRANCO LN NE**. 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.**

5. Prior to issuance of building permits, the applicant shall submit evidence that the access easement has been improved to the standards in MCC 16.33, which may include paving of at least 20 feet in width. The access easement is also to provide for utilities.
6. 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:

7. 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:

8. 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).
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.

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 \$200.00) 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 **May 14, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 15, 2018** unless further consideration is requested.

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

1. The subject parcel is located within the Salem Urban Growth Boundary (UGB), designated Single Family Residential in the Salem Comprehensive Plan. It is zoned UD (Urban Development) under the jurisdiction of Marion County.
2. The property is located on the west side of Hollywood Dr NE approximately 425 feet south of its intersection with Silverton Rd NE. The property is undeveloped. The property was created by deed recorded prior to September of 1977 and is considered a legal parcel for land use purposes.
3. The properties to the north are zoned UD and in residential development. Property to the east is located in the RL zone and developed with an apartment complex. Property to the west and south are zoned RS and in residential development.
4. The applicant proposes to divide a 0.74 acre parcel into three parcels containing 8,057 square feet, 9,459 square feet and 10,712 square feet each.

5. Public Works Land Development and Engineering Permits requested that Conditions A and B, be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and are available for review in the Planning file. LDEP will not approve the final plat for recordation until the following conditions have been met.

“Condition A – *On the plat, dedicate a 30-foot half-width along the Hollywood Drive frontage for public right-of-way purposes. Also show a minimum 4-foot PUE behind the R/W [MCC 16.33.260].*

Condition B – *Prior to plat approval, remit a payment in-lieu-of construction to Marion County in a proportional amount for the design and construction of Hollywood Drive frontage improvements to Marion County and City of Salem standards for an urban local street, to include road widening to provide a 17-foot half-width, PCC curb/gutter, driveway approaches and sidewalk, closed drainage system, and landscape strip along the subject property frontage that MCPW Capital Projects Engineering will be undertaking during Year 2020/21 as a subsidized Federal Aid Project [MCC16.33.160, 16.33.320].*

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee, second mylar 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.

6. In order to partition land in an UD (URBAN DEVELOPMENT) zone, the standards and criteria in Chapter 16.15.300(B) of the Marion County Code (MCC) apply:
- (a) *Existing lots with dwellings may be separated from the remaining property provided:*
 - (1) *The location of lot lines shall not significantly reduce feasible options for the future location of urban roads or services, or preclude basic development options on the property or adjacent properties. If the applicable comprehensive plan designates the property for single family residential uses a development plan may be required which demonstrates that the proposed division will not preclude future subdivisions achieving the median density proposed in the Comprehensive Plan.*
 - (2) *Any additional street right-of-way required by adopted standards is dedicated along the lot's street frontage.*
 - (3) *If the dwelling is within 300 feet of a sewer line capable of serving the dwelling, the dwelling shall be connected to the sewer.*
 - (4) *Street and drainage improvements applicable to any street abutting the dwelling lot shall be required at the time the remnant parcel is developed through an improvement agreement.*
 - (b) *The minimum lot size for partitioning and lot line adjustments shall be 6,000 square feet for the dwelling lot. If the dwelling lot is proposed to be larger than 15,000 square feet a redevelopment plan shall be required demonstrating that the proposed dwelling lot meets subsection (a) (1). The location of lot lines on the dwelling lot shall conform to the yard requirements of the RS zone.*
7. The applicants request to divide a .74 acre parcel into three parcels. The resulting parcels will be 8,057 square feet, 9,459 square feet and 10,712 square feet in size, meeting the minimum lot size requirements. All three parcels will be served by an access easement. Given the fact that surrounding properties are developed and partitioned, and with a review of the submitted site plan, it appears that this proposal will have no effect on future development options for these properties. The criterion in #6(a)(1) is satisfied. Marion County Public Works indicated that additional right-of-way is required along Hollywood Drive and must be shown on the final plat. The applicant must obtain access permits. If these requirements are added as conditions of approval the proposal can satisfy #6(a)(2) and (4). Any additional development may require the applicants to meet the requirements of the City of Salem Public Works Department prior to obtaining water and sewer hook ups. The proposal can meet #6(a)(3). The three proposed lots exceed the 6,000 square foot minimum lot size and are of sufficient size and shape for residential development. The proposal meets 6(b).

8. 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 **FRANCO LN NE** 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.

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

Joe Fennimore
Director-Planning Division

Date: April 27, 2018

If you have any questions please contact Lisa Milliman 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.