

**NOTICE OF DECISION  
PARTITION CASE NO. 18-029**

**APPLICATION:** Application of Oak Creek, LLC to divide a 0.4 acre parcel into two parcels of 7,830 square feet and 8,700 square feet each in a CO (Commercial Office) zone located at 3890 Monroe Avenue NE, Salem (T7S: R2W; Section 30CB; tax lot 1300).

**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 **December 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 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 18-018. 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.
3. Prior to plat approval, the applicant shall submit evidence that an annexation agreement has been executed with the City of Salem.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

***Condition A** – Applicant shall dedicate additional public right-of-way along Monroe Avenue on the partition plat to achieve a 30-foot half-width.*

***Condition B** – Prior to plat approval, make a good faith effort to obtain a shared access easement over a portion of the adjacent private access easement, named Thelma Lane, and adjoining parcel, to serve the proposed development in lieu of establishing a separate access easement over the subject property.*

***Condition C** – Prior to plat approval, design, permit and construct a Monroe Avenue 1/4-street frontage improvement to Marion County and City of Salem standards for an urban local street, including road widening to provide a 17-foot paved half-width, PCC curb/gutter, driveway approach and sidewalk, closed drainage system public extensions and connections as necessary, and landscape strip and utility connections.*

***Condition D** – If a shared access easement across Thelma Lane is able to be obtained in accordance with PW Engineering Condition B, then prior to plat approval, extend urban offsite improvements to include the Thelma Lane connection at Monroe Avenue in conjunction with frontage improvements.*

**Condition E** – If a shared access easement across Thelma Lane is able to be obtained in accordance with PW Engineering Condition B, prior to plat approval, record a Road Maintenance Agreement for Thelma Lane.

**Condition F** – Prior to application for building permits for multi-family or commercial development, submit a drainage plan to MCPW Engineering for review and approval that addresses conveyance of stormwater runoff to a legal outfall such as Monroe Avenue or to existing ESSD stormwater piping on private property. Prior to issuance of building permits, obtain any necessary drainage easement for stormwater connection on adjacent private property.

5. Prior to plat approval, the applicant shall submit evidence that the new parcel has legal access to Thelma Lane NE or provide an easement on the property for access, which shall have a name approved by the Marion County Planning Division, in coordination with the 9-1-1 Emergency System. 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.**

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

6. The partition plat shall be recorded.
7. 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.
8. Prior issuance of building permits, the applicant shall submit evidence that a sewer permit has been obtained from the City of Salem.

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

9. 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:

10. 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).
11. 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 **December**

**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 **December 15, 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 Commercial in the Salem Area Comprehensive Plan. The major purpose of this designation and the corresponding CO (Commercial Office) zone is to provide areas for nonretail commercial services and medium density residential accommodations.
2. The property is located on the south side of Monroe Avenue NE approximately 410 feet west of its intersection with Lancaster Drive NE. The property contains an existing dwelling. The property was subject of previous land use cases and is considered a legal parcel for land use purposes.
3. The parcels to the north are zoned Commercial Retail, property to the east is zoned Multiple Family Residential, property to the south is zoned General Industrial and parcels to the west are zoned Single Family Residential. All properties are in uses appropriate to the zone in which they are located.
4. The applicant proposes to divide a 0.4 acre parcel into two parcels of 7,830 square feet and 8,700 square feet each. The existing dwelling will remain on the 7,830 square foot parcel.
5. Public Works Land Development and Engineering Permits requests that the following conditions are included in the land use case. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file.

*“**Condition A** – Applicant shall dedicate additional public right-of-way along Monroe Avenue on the partition plat to achieve a 30-foot half-width.*

Nexus for this Condition is to accommodate road improvements to a county-maintained Local road in need of widening and urbanization and to include sidewalks for pedestrian safety, as authorized under MCC 16.33.260. The proposed residential or commercial use will increase vehicular traffic to the road and pedestrian traffic to the sidewalks. Per the 2017 City of Salem Transportation System Plan, Monroe Avenue is designated as a City Local Road, with a minimum right-of-way requirement of 60 feet.

***Condition B** –Prior to plat approval, make a good faith effort to obtain a shared access easement over a portion of the adjacent private access easement, named Thelma Lane, and adjoining parcel, to serve the proposed development in lieu of establishing a separate access easement over the subject property.*

Nexus for this Condition is to satisfy MCC 16.33.680 such that the back lot will have legal access to the public road system, and to manage access spacing requirements.

***Condition C** – Prior to plat approval, design, permit and construct a Monroe Avenue ¼-street frontage improvement to Marion County and City of Salem standards for an urban local street, including road widening to provide a 17-foot paved half-width, PCC curb/gutter, driveway approach and sidewalk, closed drainage system public extensions and connections as necessary, and landscape strip and utility connections.*

Public improvement requirements for subdivisions and partitions are in accordance with MCC 16.33.160 and MCC 16.33.320. Marion County applies the City of Salem Collector “A” standard to local streets.

***Condition D** – If a shared access easement across Thelma Lane is able to be obtained in accordance with PW Engineering Condition B, then prior to plat approval, extend urban offsite improvements to include the Thelma Lane connection at Monroe Avenue in conjunction with frontage improvements.*

***Condition E** – If a shared access easement across Thelma Lane is able to be obtained in accordance with PW Engineering Condition B, prior to plat approval, record a Road Maintenance Agreement for Thelma Lane.*

***Condition F** – Prior to application for building permits for multi-family or commercial development, submit a drainage plan to MCPW Engineering for review and approval that addresses conveyance of stormwater runoff to a legal outfall such as Monroe Avenue or to existing ESSD stormwater piping on private property. Prior to issuance of building permits, obtain any necessary drainage easement for stormwater connection on adjacent*

*private property.”*

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.

City of Salem commented that sewer permits and annexation agreements will be required.

6. In order to partition land in a CO (Commercial - Office) zone, the standards and criteria in Chapter 16.05.120 of the Marion County Code (MCC) apply:

- C. *Lot Area, Other Uses. All other uses shall occupy lots of at least 6,000 square feet.*
- D. *Lot Dimensions. The lot width shall be at least 40 feet, and the lot depth shall be at least 70 feet.*

The applicant’s request is to divide a 0.40 acre parcel into two parcels containing 7,830 square feet and 8,700 square feet each. One of the proposed lots will be smaller than the 6,000 square foot minimum in the Marion County Code. The proposed lots exceed the 6,000 square foot minimum lot size and both parcels meet the minimum lot width and depth standards. The existing parcel has frontage on Monroe Avenue NE. The applicant intends to provide access to the new parcel via a private easement on an adjacent parcel named Thelma Lane NE. With documentation of authority to use Thelma Lane NE for access, the proposal meets the criteria.

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.*

The applicants are proposing to use an existing access easement to serve the new parcel, which meets the criteria above. If access to Thelma Lane NE is not allowed, a new access meeting these criteria would be required. 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 would have to be submitted to the 911 Dispatch Center for review and approval. The approved 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.

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

Joe Fennimore  
Director-Planning Division

Date: November 29, 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.