

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. 19-005**

APPLICATION: Application of Silver Creek Fellowship to divide an 18.22 acre parcel into two parcels containing 1.50 acres and 16.72 acres in a UT-5 (Urban Transition- 5 Acre Density) zone located at 822 Industry Wy and 239 Monson Rd NE, Silverton. (T6S; R1W; Section 34BC tax lot 300 and Section 34BD; tax lot 1200).

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 **May 14, 2021**. 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 19-005. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. The applicant is advised that a current or updated title report must be submitted at the time of plat review by 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 sufficient public right-of-way to provide a half-width of 25 feet along Monson Road fronting the proposed 1.5-acre parcel. Any dedications should be to the public, not Marion County.*

***Condition B** – Prior to any future Building Permit for a replacement dwelling on the proposed 1.5-acre lot, and notwithstanding consideration for hardship waiver by circumstance such as due to fire, Owner shall apply for and obtain a Major Construction Permit to design, permit and construct urban frontage improvements along their Monson Road frontage. Improvements are anticipated to include sidewalk, curb/gutter, and asphalt widening. In the alternative, the appropriate governing jurisdiction may, at its discretion and if best serving the public interest, authorize recordation of a Non-Remonstrance Agreement in lieu of immediate urban frontage improvements.*

Prior to issuance of building permits on the resulting parcels:

4. The partition plat shall be recorded.

5. 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:

6. 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:

7. 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).
8. 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.
9. The applicants should contact Silverton Fire District 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. The Silverton Fire District contact person is Ron Parvin at (503) 873-5328.

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 **May 14, 2019**. 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, 2019** unless further consideration is requested.

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

1. The subject properties are designated Residential in the City of Silverton Comprehensive Plan and correspondingly zoned UT-5 (Urban Transition – 5 Acre Density) under the jurisdiction of Marion County.
2. The properties are located on the east side of Monson Rd NE and on the north side of Industry Way NE, Silverton. The 18.22 acre parcel contains a dwelling, a church, storage buildings, well and septic systems. The parcel was created in its current configuration by Property Line Adjustment #17-014 (PLA17-014) and considered legally created for land use purposes.
3. Adjacent properties to the north, east and west are zoned UT-5 and consist of single family dwellings. Properties to the northeast and northwest are located inside the city limits. Properties to the south are zoned UT-5 and IG (General Industrial) and in residential and industrial use.
4. The applicant proposes to divide an 18.22 acre parcel into two parcels containing 1.50 acres and 16.72 acres.

5. Public Works Land Development and Engineering Permits (LDEP) requested the following be included in the land use decision:

Engineering Conditions:

“Condition A – *On the plat, dedicate sufficient public right-of-way to provide a half-width of 25 feet along Monson Road fronting the proposed 1.5-acre parcel. Any dedications should be to the public, not Marion County.*

Nexus for the above Condition is to accommodate for possible future improvements to a roadway of less than sufficient width in need of widening and is pursuant to Marion County Code (MCC) 16.33.260, whereby right-of-way half-width dedication may be conditioned to accomplish a standard right-of-way width on land being partitioned, and furthermore, is also in accordance with MCC 16.13.310 whereby the dedication of additional right-of-way fronting any lot of 10 acres or less that is part of a partition applies. Marion County defers to the City of Silverton TSP for right-of-way widths within their UGB. Monson Road is a low volume Local road for which 50 feet of right-of-way is specified.

Condition B – *Prior to any future Building Permit for a replacement dwelling on the proposed 1.5-acre lot, and notwithstanding consideration for hardship waiver by circumstance such as due to fire, Owner shall apply for and obtain a Major Construction Permit to design, permit and construct urban frontage improvements along their Monson Road frontage. Improvements are anticipated to include sidewalk, curb/gutter, and asphalt widening. In the alternative, the appropriate governing jurisdiction may, at its discretion and if best serving the public interest, authorize recordation of a Non-Remonstrance Agreement in lieu of immediate urban frontage improvements.*

The above Condition is in accordance with MCC 11.15 and 16.33.320 whereby no building permit may be issued within a partition until improvements have been sufficiently completed to Public Works standards.”

Engineering Requirements:

“C. The subject property is within the City of Silverton Urban Growth Boundary and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #95-44R and 98-40R, respectively.”

Engineering Advisories:

- “D. Please be aware that construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties, per Oregon Drainage Law. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner. It was noted during an initial site evaluation that it appears fill and possibly construction debris, has been brought in to level out part of a natural drainageway that has upstream origins.
- E. As the site conditions currently exist, a westerly extension of Industry Way to connect through to Monson Road and/or to an intermediate location of a future N-S connector (as proposed in the June 2013 Silverton West Side Land Use and Transportation Plan) would likely be a challenge to construct due to current land use in the immediate area. At such time the property with the dwelling is annexed into the City of Silverton it may be wise to discuss with the City if this Industry Way extension is still viable, and if a right-of-way reservation for a no-build stipulation within the path of a potential future public road extension will be required.
- F. Monson Road becomes a non-county maintained public Local Access Road beginning northward from the end of the paved section where it turns to gravel.”

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.

6. The following regulations are listed in Marion County Code (MCC) 16.13.310 and shall apply when partitioning of land regulated by Chapter 16.33 MCC is proposed in the UT zone:

- (A) *Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*
- (B) *The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*
- (C) *When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*
- (D) *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan. The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*
- (E) *New lots shall have no dimension less than 80 feet.*
- (F) *When a lot located in a residential plan designation and occupied by a non-residential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*
- (G) *The minimum lot size, in acres, for lots in non-residential plan designations is the numerical suffix added to the UT zone (i.e. one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added - five acres.*

7. The applicants are proposing to divide an 18.22 acre parcel into two parcels containing 1.50 acres and 16.72 acres each. The proposed 1.50 acre parcel will contain the existing dwelling and the remaining portion of the parcel consists of a steeply sloping swale to the north and east making it undevelopable. Therefore, a redevelopment plan will not be required. The property will continue to access off of Monson Rd. The existing septic system and repair area for the dwelling is located on an easement on the industrial parcel to the south. The 16.72 acre parcel will contain the existing church and accessory buildings and will continue to access off of Industry Wy. Additional right-of-way dedication was requested by Public Works Land Development and Engineering and will be made a condition of approval. The city did not request a non-remonstrance agreement; therefore, this will not be made a condition of approval. Neither of the parcels resulting from the proposed partitioning has a dimension less than 80 feet. Therefore, the applicants' proposal will comply with the review criteria listed in #9(A), (B), (C), (D), and (E). The property is in a Residential Comprehensive Plan designation and not occupied by any non-residential use. With the proposed partitioning, this land will be available for future residential development. Criterion in #9(F) and (G) does not apply.
8. The applicants are advised that, as specified under MCC 16.13.310(A), a series partition is not permitted, and, therefore, no additional land division of the remaining parcels is allowed prior to the property being rezoned or annexed into the City of Silverton.
9. Based on the above findings, the proposed partitioning complies with the criteria for a partitioning in the UT-5 zone and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: April 29, 2019 April 29, 2019

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.