



Marion County **OREGON**

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MEMORANDUM

TO: Marion County Hearings Officer

FROM: Marion County Planning Division/Fennimore

SUBJECT: Comprehensive Plan/Zone Change 18-005/Conser and Sons LLC

DATE: November 1, 2018

The Marion County Planning Division has reviewed the above named case and offers the following comments:

FACTS:

1. The subject properties consist of two parcels totaling 4.91 acres that are in the Salem Urban Growth Boundary (UGB) and are designated Multiple Family Residential in the Salem Area Comprehensive Plan (SACP). The larger parcel, consisting of 4.33 acres, and a 0.53 acre portion of the smaller parcel are zoned UD (Urban Development). The remainder of the smaller parcel is zoned RM (Multiple Family Residential).
2. The properties are located on the southwest corner of the intersection of Ward Drive NE and Fisher Road NE. The property is basically rectangular in shape with approximately 240 feet of frontage along Ward Drive and 800 feet along Fisher Road. The property is predominantly flat and is currently undeveloped.
3. Surrounding properties to the south are inside the Salem city limits and consist of vacant wooded land and Claggett Creek. Property to the east, across Fisher Road, contains vacant land inside city limits and slated for a future park. Other lands to the east are zoned UD and are either undeveloped or underdeveloped. Properties to the west are zoned RM and consist of one vacant parcel and a second parcel is developed with condominiums. Property across Ward Drive contains a church on property zoned RM and single family dwellings on individual lots that are zoned RS (Single Family Residential).
4. The applicant is requesting to change the UD zoned portion of the properties to RM and develop an apartment complex on the site.
5. City of Salem Planning Department commented that the property is designated as Multiple Family in its comprehensive plan. They have reviewed the proposal and no concerns.

City of Salem Public Works comments include:

“Purpose

Identify availability of public works infrastructure (streets, sanitary sewer, storm drainage, and water) for a proposed zone change of approximately 4.33 acres located southwest of the Fisher Road NE and Ward Drive NE intersection.

Public Works Infrastructure

Urban Growth Area Development

The subject property is located inside of the Urban Service Area.

Streets

1. *Ward Drive NE has an approximate 66-foot improvement within an approximate 80-foot-wide right-of-way abutting the subject property. This street is designated as a Minor Arterial street in the Salem TSP. The standard for this street is a 46-foot-wide improvement within a 72-foot-wide right-of-way.*
2. *Fisher Road NE has an approximate 34-foot improvement within an approximate 60-foot-wide right-of-way abutting the subject property. This street is designated as a Collector street in the Salem TSP. The standard for this street classification is a 34-foot-wide improvement within a 60-foot-wide right-of-way.*

Storm Drainage

1. **Existing Conditions**
 - a. *A City-owned storm main is located in Fisher Road NE.*

Water

1. **Existing Conditions**
 - a. *The subject property is located in the Jan Ree Water District.*
 - b. *The subject property is located in the G-0 water service level.*
 - c. *An 8-inch City-owned water main is located in Ward Drive NE.*
 - d. *An 8-inch City-owned water main is located along Stillwater Drive NE.*

Sanitary Sewer

1. **Existing Conditions**
 - a. *The subject property is located in the East Salem Service District (sewer).*
 - b. *An 8-inch City-owned sewer main is located in Ward Drive NE.*
 - c. *An 8-inch City-owned sewer main runs west to east on Marion County Assessor’s*

Map

and Tax Lot 073W12 AD 00100.

Natural Resources

1. *A FEMA-regulated floodplain and floodway are located on the southern portion of the property.*
2. *The subject property has a small area of hydric soils according to the Local Wetland Inventory (LWI) map.*
3. *According to City records, 2-point and 3-point landslide hazards areas exist on the southern portion of the property.”*

Marion County Department of Public Works (DPW) Land Development Engineering and Permits (LDEP) commented:

“Public Works Engineering requests that the following conditions are included in the approval of the land use case:

Condition A – *Prior to application for building permits, dedicate sufficient right-of-way along the Fisher Road NE subject property frontage to provide the public dedicated right-of-way half-width of 30-foot in accordance with City of Salem Collector A standard.*

Condition B – *Prior to Certificate of Occupancy issuance, obtain necessary permits from MCPW Engineering to construct urban frontage improvements along Fisher Road NE in accordance with appropriate standards to include such elements as access approach, sidewalk, landscape strip, and closure of the Ward Drive existing access.*

Nexus and timing for the above Conditions is the proposed addition of vehicular and pedestrian traffic to a road in need of pedestrian improvements to provide for connectivity and safety, and sufficient space for utilities [MCC 16.39.060(B)(10) & 16.39.70(D)].

Please note that the following Requirements will only be referenced in the Planning Department’s forthcoming *Notice of Decision*.

C. A driveway “Access Permit” for access to the public right-of-way will be required for any new access to the County controlled portion of the Fisher Road frontage and closure of the Ward Drive NE parent access, as conditioned above. Driveways must meet sight distance, design, spacing, and safety standards [Marion County Driveway Ordinance #651 & MCC 11.10].

D. Prior to application for building permits, submission of a civil site development plan is required for 0.5 acres of development or more, and shall address grading and drainage issues.

E. Prior to issuance of building permits, design and permit onsite stormwater detention and WQT facilities. Prior to issuance of a Certificate of Occupancy (C/O), construct and acquire final inspection approval for the aforementioned facilities. An Operation & Maintenance (O&M) Plan is required once the stormwater design is approved. A recorded O&M Agreement is also required prior to issuance of a C/O. Note that a Building Department Rain Drain Plumbing Permit is a co-requisite to issuance of a Stormwater Permit. The County requires any development 0.5-acre or larger to provide storm water detention. The subject property is located in the upper reaches of the Claggett Creek drainage basin, which drains through the City of Keizer. Due to the flooding experienced by the city during the winter storms of 1996 and 1997, Keizer initiated an October 2000 Stormwater Management Agreement between Marion County, the City of Salem and the City of Keizer. The Claggett Creek basin is one ‘area of concern’ listed in the Agreement wherein cooperation between the agencies is cited. As requested by Keizer, and agreed to by the County, storm drainage improvements shall be built to contain a 50-year design storm, as specified in the City of Salem’s Stormwater Management Design Standards.

F. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #97-39R and 98-40R, respectively.

G. Prior to building permit issuance, Applicant shall obtain an Erosion Prevention and Sediment Control (EPSC) Permit from MCPW. MCPW has recently been contracted with DEQ under our

MS4 Permit to administrate from 1 to just under 5-acre sites within the DEQ-defined Stormwater Management Area.

H. Any vegetation placed in the public R/W must meet specifications for vision clearance and intersection sight distance.

I. Prior to the public land use hearing with the Marion County Hearings Officer, update the TIA to address the following paraphrased comments from Janelle Shanahan, Marion County Transportation Planner.

- Add summary of analysis for existing conditions PM Peak Hour Operations of volumes shown in Fig. 5.
- Horizon year to be analyzed should be 20 years after buildout, not 20 from existing condition year. Therefore if buildout year is 2020, the horizon year should be 2040.
- Added generated trips for TIA shall be total new trips due to actual proposed development, and not the incremental change based on the zone change. If 142 total dwelling units are proposed for the project, that results in 62 new trips, whereas it appears only 53 new trips have been assigned per Fig 10 and Fig 11.
- Submit new findings with the revised number of generated trips, and the revised buildout year.
- It is noted that crash data was requested by Marion County, but not available at the time the report submitted; include with next submittal.

Applicant should also be aware of the following:

J. Utility work within the public R/W will require permits from MCPW Engineering.

K. A drainage easement to Marion County over the subject property is recorded at Reel 3445/Pg 117. The easement comprises a detention and water quality municipal pond for public street runoff, and sits in the southeast corner. Note that MCPW Engineering will not support the concept of comingling development-generated stormwater into the municipal pond.

L. A portion of the subject property lies within the FEMA 100-year flood plain for Claggett Creek. Applicant shall be responsible to furnish proof of compliance with outside agency (DSL, etc.) requirements as it relates to the floodplain, or waiver thereof.

M. Water and sewer permits are obtained from the City of Salem for this area.

N. Annexation of the subject property and adjoining public R/W prior to development will transfer permitting authority to the City.”

Marion County Department of Public Works Environmental Services commented that the site will need to meet storm water detention and storm water treatment standards.

At the time of this staff report all other contacted agencies contacted either failed to respond or stated no objection to the proposal.

STAFF FINDINGS AND ANALYSIS:

6. In land use actions of this type, the applicant has the burden of proving compliance with all applicable criteria. This report will outline the criteria that must be satisfied in order for an

approval to be granted. If the applicant supplied argument or evidence to address specific criteria, the response will be summarized.

7. The requirements for zone changes are found in MCC (Marion County Code) Section 16.39.050 and include:
 - A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.*
 - B. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.*
 - C. *The request shall be consistent with the purpose statement for the proposed zone.*
 - D. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*
8. The existing Plan designation in the Salem Area Comprehensive Plan is Multi-Family Residential, and this Plan designation provides for the application of the RM zone proposed by the applicant. In their statement the applicants addressed the following SACP Policies:

Residential Development Policy 3 *City codes and ordinances shall encourage the development of passed over lands or underutilized land to promote the efficient use of residential land and encourage the stability of neighborhoods.*

Applicant indicates the proposed zone change, with the intention of building apartments on this undeveloped land, is consistent with this policy.

Residential Development Policy 6 *Multi-family housing shall be located in areas proximate to existing or planned transportation corridors, public facilities and services:*

- a. *To encourage the efficient use of residential land and public facilities, development regulations shall require minimum densities for multiple family development zones;*
- b. *Development regulations shall promote a range of densities that encourage a variety of housing types;*
- c. *Multiple family developments should be located in areas that provide walking, auto or transit connections to:*
 - (1) *Employment centers;*
 - (2) *Shopping areas;*
 - (3) *Transit service;*
 - (4) *Parks;*
 - (5) *Public buildings.*

Applicant indicates that when developed, the site will provide multiple family housing along two major transportation corridors. In addition, the site is near employment centers, shopping, transit service, and a future park.

Residential development policy 7 - Residential neighborhoods shall be served by a transportation system that provides access for pedestrian, bicycles, and vehicles while recognizing the neighborhoods physical constraints and transportation service needs:

- a. The transportation system shall promote all modes of transportation and dispersal rather than concentration of through traffic;
- b. Through traffic shall be addressed by siting street improvements and road networks that serve new development so that short trips can be made without driving;
- c. The transportation system shall provide for a network of streets fitted to the terrain with due consideration for safety, drainage, views, and vegetation.

Applicant indicates the concept plan for the future apartment complex includes sidewalk and streetlight improvements that will encourage pedestrian traffic. Other transportation infrastructure, such as bicycle and vehicle travel lanes are already in place.

Residential development policy 9 - Alternative Residential Development Patterns. Subdivision and zoning regulations shall provide opportunities for increased housing densities, alternative housing patterns, and reduced development costs. Development regulations shall promote residential development patterns that encourage:

- a. The use of all modes of transportation;
- b. Reduction in vehicle miles traveled and length of auto trips; and
- c. Efficiency in providing public services.

Applicant indicates the proposed apartment complex will be accessible to all modes of transportation which are either already existing or will be extended to adequately serve the development.

Residential development policy 10 - Requests for rezonings to higher density residential uses to meet identified housing needs will be deemed appropriate provided:

- a. The site is so designated on the comprehensive plan map;
- b. Adequate public services are planned to serve the site;
- c. The site's physical characteristics support higher density development; and
- d. Residential Development Policy 7 is met.

Applicant indicates the property is designated multiple family residential in the SACP. Public services either already exist or will be extended to the property. The site is generally flat with the exception of the southern portion which contains a wooded area and Clagett Creek, including identified 100 year floodplain. All habitable structures will be placed out of the floodplain to preserve it and the associated woodlands. The proposal meets the criterion in 7(A).

9. The site is served by city water and sewer service. All other needed public facilities and services are in place or will be made available to support the proposed use. The criterion in 7(B) is met.
10. The RM (Multiple Family Residential) zone purpose statement listed under MCC 16.04.000 states: "The RM (multiple-family residential) zone is primarily intended to provide for multiple-family dwellings on a lot, or attached dwellings on separate lots, at residential densities greater than permitted in the RL zone. Other uses compatible with residential development are also appropriate. RM zones are located in areas designated as multiple-family residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with

urban services. They are suited to locations near commercial office and retail zones and along collector and arterial streets.” Applicant indicates the concept plan indicates the intended use is consistent with the proposed zone. The criterion in 7(C) is satisfied.

11. The RL zone is the most restrictive zone consistent with the Multi-Family Residential Comprehensive Plan designation. The proposed RM zone allows the same types of uses as the RL zone but at a higher density. The subject properties are adjacent to other undeveloped properties within the RM zone. Development standards in the zone are intended to provide buffering from any adjacent lower residential density zones. The criterion in 7(D) is met.

CONCLUSION:

12. Staff recommends approval of the proposal. Should the hearings officer grant the applicant’s request for the change in zone from UD to RM, the Planning Division recommends the following conditions be applied:
 - (a) The applicant shall obtain all permits required by the Marion County Building Inspection Division.
 - (b) All future development on the property must satisfy the specific development standards in the RM zone and the general development standards found in Chapters 26 through 40 of the MCC.
 - (c) Prior to application for building permits, dedicate sufficient right-of-way along the Fisher Road NE subject property frontage to provide the public dedicated right-of-way half-width of 30-foot in accordance with City of Salem Collector A standard.
 - (d) Prior to Certificate of Occupancy issuance, obtain necessary permits from MCPW Engineering to construct urban frontage improvements along Fisher Road NE in accordance with appropriate standards to include such elements as access approach, sidewalk, landscape strip, and closure of the Ward Drive existing access.