

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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. 19-009**

APPLICATION: Application of Christ the Good Shepherd Lutheran Church to divide a 6.06 acre parcel into two parcels containing 3.18 acres and 2.88 acres each in a RS (Single Family Residential) zone and an RM (Multiple-Family Residential) zone located at 4440 State St., Salem. (T7S; R2W; Section 30DD; tax lot 4200).

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 **August 7, 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:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5038) and shall contain the notation that the survey is the result of Partition Case 19-009. 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. Public Works Land Development Engineering requests that the following condition be required for approval of this land use case:
 - Condition A – On the plat, dedicate an additional 15-foot half-width right-of-way (R/W) along the subject property's Brink Court frontage commensurate with the Marion County residential cul-de-sac (<500') standard to achieve a 50-foot total R/W width, and also dedicate a 30-foot SE property corner radius.

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

4. 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:

5. 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).
6. 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.
7. 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.

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 **August 7, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 8, 2019** 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 and Multiple Family in the Salem Area Comprehensive Plan. The major purpose of this designation and the corresponding RS (Single Family Residential) zone and RM (Multiple-Family Residential) zone is to provide areas for residential development on individual lots at urban densities.
2. The property is rectangular in shape and approximately 335 feet wide, with frontage on State Street to the north and Marht Avenue to the south, and approximately 780 feet deep. It also has approximately 323 feet of frontage on Brink Court SE along its southeast corner. The northern portion of the property is zoned RM and contains a church while the southern portion is zoned RS and contains a dwelling related to the church.

The applicants also have an application under consideration to change the Comprehensive Plan designation from Single Family Residential to Multiple Family Residential and to change the zone from RS (Single Family Residential) to RM (Multiple Family Residential) on approximately 1.76 acre portion of a 6.01 acre parcel and then for conceptual and detailed approval to subdivide the 6.01 acre parcel into 13 lots, (10 lots in the RS zone and three lots in the RM zone). The Hearings Officer held a hearing on the request, but has not issued a recommendation as of yet.

3. Adjacent properties are devoted to various types of residential uses depending on their zone. Properties to the north, along State Street, are zoned RM and developed with various types of multiple family residences. Property to the south, along Marht Avenue and Brink Court, is zoned RS and consists of single family dwellings on small subdivision lots.
4. The applicant proposes to divide a 6.06 acre parcel into two parcels containing 3.18 acres and 2.88 acres each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following condition be included in the land use decision:

“Condition A – On the plat, dedicate an additional 15-foot half-width right-of-way (R/W) along the subject property’s Brink Court frontage commensurate with the Marion County residential cul-de-sac (<500’) standard to achieve a 50-foot total R/W width, and also dedicate a 30-foot SE property corner radius.”

Nexus for the above Condition is in accordance with Marion County Code Sections 16.33.220 & 260. There are currently 17.5’ R/W half-widths on each side of the Brink Court centerline.”

Engineering Requirement:

“B. In accordance with Marion County access criteria, regular vehicular public access to the proposed south parcel shall be derived from the lower functional class road, being Mahrt Avenue, that is a Local street per City designation. However, PW Engineering fully supports emergency vehicle and pedestrian indirect access to State Street from the south parcel.”

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 fees required. A current or updated title report must be submitted at the time of review. Title reports shall be no more 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. Marion County Code (MCC) exempts from the requirements of a partitioning a land division where all parcels are within the RM zone. In this case, one parcel created will be zoned both RM and RS and one parcel created will be zoned solely RS. Because not all parcels that are created will be zoned RM, this exemption does not apply.
7. 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 proposes to divided the property approximately in half; however, the northern half would include a portion of land toward the south end zoned RS. The southern lot would be approximately 2.88 acres in size. The RS portion of the northern lot would be approximately 20,000 square feet. Both of these lot areas exceed the minimum in the RS zone. As well, both parcels exceed the minimum lot width of 60 feet and lot depth of 70 feet. Density standards apply when residential structures are placed on the property. Therefore, the proposal meets the criteria for dividing land in the RS zone.

8. In order to partition land in an RM (Multiple-Family Residential) zone, the standards and criteria in Chapter 16.04.120 of the Marion County Code (MCC) apply:
 - A. *Lot Area, Multifamily Dwellings and Other Uses. At least 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)*
 - B. *Lot Dimensions. The width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet except as provided in MCC 16.26.800 for planned developments.*
9. The RM portion of the northern lot would be approximately 2.7 acres. This exceeds the minimum in the RM zone. The width and depth of the lot would exceed the minimum size, as well. Density standards apply when residential structures are placed on the property. Therefore, the proposal meets the criteria for dividing land in the RM zone.

10. MCC 16.33.680 requires that all lots created have a minimum 20 feet of frontage on a public right-of-way or be served by an access easement. In this case, both lots have in excess of 20 feet of frontage on a public right-of-way. The proposal meets this standard for access.
11. 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: July 23, 2019

If you have any questions please contact Brandon Reich at (503) 566-4165.

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.