

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/PROPERTY LINE ADJUSTMENT CASE NO. 19-013**

APPLICATION: Application of Joseph and Marisol Kaestner and Janice and Steven McCown to adjust the property lines on a 0.28 acre parcel and a 0.26 acre parcel to create a 0.22 acre parcel and a 0.31 acre parcel and then to divide the resulting 0.31 acre parcel into two parcels containing 6,510 square feet and 7,076 square feet each in an UD (Urban Development) zone located at 4798 Satter Dr. NE and 4185 Schafer Rd. NE, Salem. (T7S; R2W; Section 8BD; tax lots 1600 and 1900).

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 **October 30, 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. **Property line adjustment deeds shall be recorded with the Marion County Clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments are recorded by the applicants with the Marion County Clerk.**
2. Deed recording reference numbers shall be noted on the required survey.
3. The applicants shall have the parcels surveyed per ORS 92.060 (7). The survey shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment / Partition Case 19-013. (Final Plat Instructions enclosed).
4. 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.
5. The applicant shall acquire the .01 acre parcel identified as tax lot 1700 prior to partitioning the resulting 0.31 acre parcel identified as tax lot 1600.
6. 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 / Property Line Adjustment 19-013. 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.**
7. 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.

8. 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, depict a public right-of-way dedication to achieve a 30-foot half-width along the Satter Drive subject property frontage.*

Condition B – *Prior to plat approval, design, permit and construct urban frontage improvements along the Satter Drive subject property frontage to meet the City of Salem City Collector A Standard. Improvements are anticipated to include PCC curb/gutter, sidewalk and driveway approach, potential closed-system drainage work, and public and franchise utility service connections.*

Condition C – *Prior to plat approval, provide a civil engineering template design for positive closed-system stormwater conveyance of roof drains to Satter Drive from the rear Satter Drive lot.*

9. 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.
10. 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:

11. After the property line adjustment has been completed, no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
12. 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:

13. 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.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 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 **October 30,**

2019. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 31, 2019** unless further consideration is requested.

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

1. The subject parcels are located within the Salem Urban Growth Boundary (UGB), designated Single Family Residential in the Salem Comprehensive Plan, and zoned UD (Urban Development). The UD (URBAN DEVELOPMENT) zone is under the jurisdiction of Marion County.
2. The properties are located on the south side of Satter Drive NE in the 4700 block. The .26 acre parcel identified as tax lot 1600 is undeveloped. The .28 acre parcel identified as tax lot 1900 contains an existing dwelling. The properties were created prior to zoning regulations in Marion County and are therefore considered lawfully created parcels for land use purposes.
3. The properties to the west, north, and east are zoned UD and in residential development. The properties to the south are zoned RS (Single-Family Residential) and in residential development.
4. The applicant proposes to adjust the property lines on a 0.28 acre parcel and a 0.26 acre parcel to create a 0.22 acre parcel and a 0.31 acre parcel and then to divide the resulting 0.31 acre parcel into two parcels containing 6,510 square feet and 7,076 square feet each.
5. Public Works Land Development and Engineering Permits requested that Conditions A through C be included in the land use decision. LDEP will not approve the final plat for recordation until the following conditions have been met:

“Condition A – On the plat, depict a public right-of-way dedication to achieve a 30-foot half-width along the Satter Drive subject property frontage.

The above Condition is in accordance with Marion County Code (MCC) 16.33.220 by which adequate right-of-way bordering the subject property shall be dedicated in the event of a partition.

Condition B – Prior to plat approval, design, permit and construct urban frontage improvements along the Satter Drive subject property frontage to meet the City of Salem City Collector A Standard. Improvements are anticipated to include PCC curb/gutter, sidewalk and driveway approach, potential closed-system drainage work, and public and franchise utility service connections.

The above Condition is in accordance with MCC 16.33.160 and 16.33.320 by which road improvements as prescribed in accordance with Marion County Engineering Standards must be completed prior to plat approval.

Condition C – Prior to plat approval, provide a civil engineering template design for positive closed-system stormwater conveyance of roof drains to Satter Drive from the rear Satter Drive lot.”

LDEP also requested that the following Requirements be included in the decision:

- D. “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.
- E. Upon application for building permits, the Applicant or their Agent will be required to sign a Construction Erosion & Sediment Control Ordinance Acknowledgement Form, which assigns responsibility to implement erosion control Best Management Practices.
- F. The following numbered sub-requirements pertain to access:
 - 1) Access from Satter Drive to the two developable lots shall be shared within an easement. The approach would be installed as part of the frontage improvements under PW Engineering Condition B.
 - 2) At the time of application for building permits, an Access Permit is required for each new dwelling.

G. At the time of building permit issuance for the Satter Drive rear lot, the General Contractor will be responsible to ensure that the roof drain conveyance system required under PW Engineering Condition C for that lot is installed per approved civil engineered plan, and inspected under a Rain Drain Plumbing Permit.”

LDEP requested the following Advisory be included:

H. “Potable water and sanitary sewer services for the subject properties are provided by the City of Salem.”

Marion County Surveyor commented: Property Line Adjustment: “Must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. Property line adjustment deeds shall be recorded with the Marion County Clerk’s Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]. Marion County Planning requires perimeter descriptions of the resultant properties.” Partition: “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.”

6. The criteria for reviewing partitions and property line adjustments within a UD zone are listed in Chapter 16.15.300(B) of the Marion County Code. These criteria are:

- (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 adjust the property lines on a 0.28 acre parcel and a 0.26 acre parcel to create a 0.22 acre parcel and a 0.31 acre parcel and then to divide the resulting 0.31 acre parcel into two parcels containing 6,510 square feet and 7,076 square feet each. The resulting parcels will be 6,510 square feet, 7,076 square feet and 9,584 square feet each in size, meeting the minimum lot size requirements. Based on the submitted site plan and information provided by the applicants, the existing dwelling on tax lot 1900 will meet required setbacks to proposed property lines.

Both resulting parcels from the partition 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 Satter Drive NE 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). All 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.*

Access from Satter Drive to the two developable lots shall be shared within an easement. 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.

9. Based on the above findings, the proposal complies with the criteria for a property line adjustment and partition the UD zone and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: October 15, 2019

If you have any questions please contact Seth Thompson 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.