

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. 23-004**

**APPLICATION:** Application of Kardboard Box, LLC to partition a 76.09-acre parcel into two parcels consisting of 37.22 acres and 38.87 acres in a UT-20 (Urban Transition – 20 acres minimum) zone located at the 2300-block of E Santiam St. Stayton. (T9S; R1W; Section 11A; Tax Lot 400).

**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 **March 28, 2025**. 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. No homesites shall be granted to the resultant parcels.
2. Parcels must be surveyed and monumented.
3. An access easement over the southern parcel (labeled Parcel 2 on the Site Plan) shall be granted for the benefit of the northern parcel (labeled Parcel 1 on the Site Plan) and said easement shall be included on the final partition plat.
4. Per ORS 92.050 the final partition plat must be submitted for review to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5038). The plat shall contain the notation that the survey is the result of Partition Case 23-004. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
5. The applicant is advised that a Partition Plat Service Report from a title company will be required upon submission of the final Mylar to the County Surveyor. Checking fee and recording fees required.
6. Land Development Engineering and Permits (LDEP) will not approve the final plat until the following conditions have been satisfied:

**ENGINEERING CONDITIONS**

*Condition A* – On the partition plat dedicate a 40-foot-wide public R/W half-width along the subject property E Santiam Street frontage to meet the City of Stayton Major Collector standard.

*Condition B* – Prior to plat approval, provide a notarized Non-Remonstrance Agreement to be recorded concurrently with the plat that acknowledges future need to extend abutting city street public access from/through the proposed south parcel to the north parcel upon future development.

The Condition is intended to acknowledge future compliance with MCC 16.33.200. Actual extension of public street access can be deferred until future city annexation and development.

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.

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

8. 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 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

9. 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).
10. The applicants should contact Marion County Land Development Engineering and Permits (LDEP, 503-584-7714) for additional Engineering Requirements and Advisories that may be required, as listed in Finding #5 below.

**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

**March 28, 2023.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 29, 2023,** 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 Residential in the City of Stayton Comprehensive Plan. The major purpose of this designation and the corresponding UT-20 (Urban Transition) zone is to provide areas for future residential development.
2. The property is located on the north side of E Santiam St, approximately 0.23 miles west of the intersection of E Santiam St and 28<sup>th</sup> Ave. The property is bare land that is currently being farmed. The property has previously been approved for several land use cases, including P80-027, ZC/CP/P/CU88-019, and LLA89-043, and is located within the City of Stayton's UGB (Urban Growth Boundary). The property has had no changes to it since its last land use case and has therefore been deemed legal for planning purposes.

3. Adjacent properties to the northwest are also in the UT-20 zone within the City of Stayton's UGB. Properties to the north across Hwy 22 are EFU (Exclusive Farm Use). Properties to the east are again zoned UT-20 within the City of Stayton's UGB. Properties to the south and west are within the city limits and are zoned LD (Low Density) Residential, with one exception of a P (Public) zoned parcel which is a Water Treatment Facility.
4. The applicant proposes to divide a 76.08-acre parcel into two parcels containing 37.22 acres and 38.87 acres.
5. Land Development Engineering and Permits (LDEP) commented:

#### ENGINEERING CONDITIONS

*Condition A – On the partition plat dedicate a 40-foot wide public R/W half-width along the subject property E Santiam Street frontage to meet the City of Stayton Major Collector standard.*

*Condition B – Prior to plat approval, provide a notarized Non-Remonstrance Agreement to be recorded concurrently with the plat that acknowledges future need to extend abutting city street public access from/through the proposed south parcel to the north parcel upon future development.*

The Condition is intended to acknowledge future compliance with MCC 16.33.200. Actual extension of public street access can be deferred until future city annexation and development.

#### ENGINEERING ADVISORY

There is no presumption of an existing ODOT-approved North Santiam Hwy (SR22) access to the subject property.

Marion County Surveyors Office commented:

1. Parcels must be surveyed and monumented.
2. Per ORS 92.050, plat must be submitted for review.
3. Checking fee and recording fees required.
4. A 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.

City of Stayton commented:

1. The property has frontage on E Santiam St. E Santiam St is a Marion County-maintained street designated as a Collector Street by our Transportation System Plan (TSP). The City's standards for a Collector Street call for an 80-foot right of way. The Marion County Assessor's Maps indicate an existing right of way of 60 feet. Therefore, the final partition plat should dedicate adequate right of way to establish a 40-foot half right of way on the north side of E Santiam St.
2. The property has frontage on E Pine St. E Pine St is a city-maintained street designated as a Neighborhood Collector Street by our TSP. The City's standards for a Neighborhood Collector Street call for a 60-foot right of way. As platted by the Oakridge Vista subdivision, E Pine St has a 43-foot right of way. Dedication of additional right of way for E Pine St may be deferred until the development of Parcel 2.
3. The application notes that there is "an approach on the northeast corner on Highway 22" that will be used to access Parcel 1 of the proposed partitioning. The City's review of Google Maps' Street view reveals this to be little more than a tractor access and its legality as an access may be questioned. Therefore, the final plat should provide for an access easement benefitting Parcel 1 over Parcel 2. If within the County's jurisdiction to do so, the County's approval of this application should prohibit access from Parcel 1 to Highway 22 except for occasional use by agricultural equipment.

Marion County Onsite Septic commented: “A soils and site evaluation will not be required on either property until owner wishes to build.”

Marion County Building commented: “No Building Inspection concerns. Permit(s) would be required to be obtained prior to any on site development and/or utilities on private property.”

All other contacted agencies: Either failed to comment or stated no objection to the proposal.

6. In order to partition land in UT zone the standards and criteria in Chapter 16.13.310 of the Marion County Code (MCC) must be met:

*A. A series partition, subdivision, residential planned development or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes, is not permitted in the UT zone.*

The applicant proposes to divide one 76.08-acre parcel into two parcels of 37.22 acres and 38.87 acres each. The partition will result in two parcels. Based on these facts, this criterion does not apply.

*B. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:*

*1. 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 no remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

No parcel shall be smaller than 10 acres. However, right-of-way dedication is still required and is a condition of approval. This criterion has been met.

*2. 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.*

This partition is being applied for with the purpose of creating parcels which are of a manageable size so that the City of Stayton may do a phased annexation of them. In this manner the city can reasonably handle the expansion of necessary services and development in increments. The parcel boundaries were chosen with annexation and development in mind and will significantly aide said development once the land has been annexed into and is served by the City of Stayton. Based on these facts, this criterion is met.

*3. 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.*

There are no dwellings on the existing lot, and approval of this partition is conditioned that no homesite shall be granted to the resulting parcels. With said conditions, the criterion is met.

*4. 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 lots being created do not fall within a 1-5 acre parcel size. Therefore, a redevelopment plan is not required, and this criterion is not applicable.

5. *New lots shall have no dimension less than 80 feet.*

Based on the site plan this criterion is met.

6. *When a lot located in a residential plan designation and occupied by a nonresidential 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.*

The current parcel is undeveloped land used for farming and is therefore not occupied by a nonresidential use. The parcels shall be conditioned as non-buildable until annexed and the applicant has stated the parcels will continue in their current farm use until such time as they are annexed for development. Based on these findings the criterion does not apply.

7. *The minimum lot size, in acres, for lots in nonresidential 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.*

This parcel has a residential plan designation, and no dwellings will be permitted prior to annexation. The criterion is met.

7. Based on the above findings, the request complies with the applicable criteria and is, therefore **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: March 13, 2023

If you have any questions regarding this decision contact Nicole Inman 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.