

Attention Property Owner: A land use proposal has been submitted for property near where you live or near the 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. 24-010**

APPLICATION: Application of the Ruth E. Davis Trust to partition a 29.99-acre parcel into three parcels consisting of 17.49-acres, 5.00-acres, and 7.51-acres in a UT-5 (Urban Transition) zone located in the 1000 Block of Oak St, Silverton (T6S; R1W; Section 35AD, Tax lot 100).

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 21st, 2026**. 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. Per the Marion County Surveyor's Office: Parcels ten acres and less must be surveyed, and Per ORS 92.050, the plat must be submitted for review. Checking fee and recording fees required and 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.
2. Prior to recording the deeds, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use final plat for recordation until the following conditions have been satisfied:

Condition A – On the partition plat dedicate sufficient public R/W over the southwest corner end of proposed parcel 3 to achieve a 30-foot half-width along Pioneer Drive.
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.

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

5. 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 the agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. 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).
7. The applicants should contact the 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.
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.

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 sign 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 21st, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 22nd, 2024** 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 in the City of Silverton Comprehensive Plan. The major purpose of this designation zone is to provide areas for future residential development. The property is currently zoned UT-5 (Urban Transition) to retain and protect the parcel for future residential development.
2. The property is located on the northeast side of the City of Silverton 500-feet south of Hwy 213 (known as Oak St in Silverton). The parcel is on a hilly downslope and is currently undeveloped and does not appear to have been engaged in commercial agriculture or forest use since at least 2016.
3. Surrounding uses are residential on the entire western and southern sides of the parcel, which are predominantly annexed into the City of Silverton. The urban growth boundary (UGB) of the City of Silverton makes up the southern half of the east property line, while the northern half of the east property line abuts another UT-5 parcel.
4. The applicant proposes to divide a 29.97-acre parcel into three parcels containing 17.49-acres, 5.00-acres, and 7.51 acres each. The intention behind the partition is to carry out the inheritance distribution of the Ruth E Davis Trust by providing lots with the potential for future development for each party.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

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

Conditions:

Condition A - On the partition plat dedicate sufficient public R/W over the southwest corner end of proposed parcel 3 to achieve a 30-foot half-width along Pioneer Drive.

Advisories:

- A. The City of Silverton has jurisdiction over abutting city public streets along the subject property southern border as it pertains to access and extension of utilities.
- B. ODOT has jurisdiction over Cascade Hwy (SR 213) for access and utility extension work.
- C. Applicant is advised to proactively coordinate with Silverton Fire District prior to tentative plat submission with regard to Fire/EVA access over the proposed easements that may need additional width for turnouts and one or more turnarounds.

Marion County Tax Assessor provided comments regarding the tax status of the subject property.

Marion County Building commented: No Building Inspection concerns with proposed partition. Permit(s) are required to be obtained prior to development and/or utilities installation on private property.

Marion County Septic commented: "Parcel 1 is ok. Parcels 2 and 3 require a Site Evaluation. Any proposed undeveloped lot of 10-acres or less in size resulting from a partition requires a site evaluation."

Marion County Survey Department commented:

- 1) Parcels ten acres and less must be surveyed.
- 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.

Silverton Fire District commented: "Future development of the property will need to comply with Oregon Fire Code."

ODOT commented: "No issues with this development. It seems likely we'll have comment if/when the future redevelopment occurs as described in the last 2 pages of the application."

All other contacted agencies either failed to comment or stated no objection to 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 29.97-acre parcel into 3 parcels of 5.00-acres, 7.51-acres, and 17.49-acres each. The partition will result in three parcels. Since the proposal will result in less than four parcel intended to be occupied by dwellings, it meets the restriction listed above. The criterion is met.

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.

Marion County LDEP provided comments listing a condition of the final plat approval would be for the applicants to dedicate additional public right-of-way along Pioneer Dr. This is the only public right-of-way to which any of the involved property has frontage. The right-of-way dedication shall be made a condition of approval. The criterion is 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 equally distribute land to heirs as part of an inheritance and allow each receiving party to redevelop their resultant parcel at a later date. The proposed property lines follow a reasonable path where Pioneer Dr could be extended along the property lines boundaries. This creates a clear path for each resultant parcel to gain public right-of-way access for a future development project without needed to do another property line adjustment. Additionally, the applicants have provided a potential redevelopment plan for all new parcels, showing the location of extended roads and services and reasonable shapes and configurations of the future residential lots. The production of this redevelopment plan shows how the partition would not significantly reduce feasible options for urban development. The 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, but the proposal would allow a dwelling on each resultant lot. While typically each new lot with a dwelling must be as small as possible and not be larger than one acre, the purpose for the partition must be taken into account. The intention is to equitably split the lot into new lots that can be developed independently by the beneficiaries of the trust. As such, the applicants have proposed a partition that allows each lot to be significantly developed independently, and they have provided a detailed redevelopment plan showing how the parcels could be fully redeveloped, including the expansion of existing services from the City of Silverton. As such, the applicants have met the burden of showing how the resultant lots retain incentive for development to planned urban uses. 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.

While the applicants have not proposed a partition that would result in a parcel being smaller than 5 acres but greater than 1 acre, they still provided a detailed development plan to meet other criteria for the partition. The proposed redevelopment plan was approved by the planning staff upon receipt. While the criterion does not apply in this situation, it was still met by the applicants on a voluntary basis.

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

None of the proposed lots or parcels in the submitted site plan have a dimension less than 80 feet. The 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 subject property does not contain any nonresidential uses and contains only undeveloped land. The property is a hillslope that does not appear to be engaged in agricultural practices and has remained an open space virtually unchanged since at least 2016. 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. Therefore, the criterion does not apply.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: October 4, 2024

If you have any questions regarding this decision contact Alexander Seifer 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.