

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of) Case No. 26-002
)
ANTONIO DIAZ) **ZONE CHANGE / SUBDIVISION**

ORDER

I. Nature of the Application

This matter came before the Marion County Hearings Officer on the Application of Antonio Diaz for a zone change to change the zone for UD (Urban Development) to RM (Multi-Family Residential) and to subdivide a .64 acre parcel into 4 lots located at 3200 Hollywood Drive NE, Salem.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code Chapter 16, especially MCC 16.39 (Zone Changes); MCC 16.33 (Subdivision and Partition Requirements); MCC 16.04 (Multiple-Family-Residential); and the Salem Area Comprehensive Plan, including Housing Goals and Policies and Land Use and Urbanization Goals and Policies.

III. Public Hearing

A public hearing was held on this matter on April 23, 2026. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

- | | | |
|----|---------------|---------------------------------|
| 1. | Gillian Peden | Marion County Planning Division |
| 2. | Shea Romero | Representative for Applicant |

No objections were raised as to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing.

IV. Executive Summary

Applicant Antonio Diaz owns the property located at 3200 Hollywood Drive NE and seeks to change the zone from UD (Urban Development) to RM (Multi-Family Residential) and subdivide the .64 acre parcel into 4 lots. The property currently has a single-family residence that has recently been remodeled. Applicant proposes to divide the remainder of the property into three additional lots. The surrounding properties are developed with single-family and multi-family residences and a public storage facility.

The property is within the Salem Urban Growth Boundary, and is located in an area served by City of Same water, sewer, and transportation infrastructure. The proposed zone change aligns with the Salem Area Comprehensive Plan land use designation for Multi-Family Residential.

Applicant meets the burden of proving the applicable standards and criteria for approval of the zone change from UD (Urban Development) to RM (Multi-Family Residential) and to subdivide a .64 acre parcel into 4 lots. The hearings officer approves the application for zone change and subdivision subject to conditions necessary for the public health, safety and welfare., including the engineering recommendations of Marion County Department of Public Works (DPW) Land Development Engineering and Permits (LDEP).

VI. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject property consists of one parcel totaling 0.64 acres that is in the Salem Urban Growth Boundary (UGB) and is designated Multiple Family Residential in the Salem Area Comprehensive Plan (SACP). The parcel is currently zoned UD (Urban Development).
2. The property is located on the east side of a public road, Hollywood Dr NE, and on the north side of public road a, Leafwood Ave NE. The property contains one single family dwelling facing Hollywood Dr NE and has one accessory building. There is a fence separating the house from the accessory structure and the open area of vacant land.
3. Surrounding properties in all directions are within the Salem UGB but are still in the jurisdiction of Marion County. Properties to the south and west are zoned Single-Family Residential (RS) and are developed with single-family dwellings. The parcel immediately north and one parcel to the west are zoned Urban Development (UD) and are developed with single family homes. The parcel immediately east is zoned Commercial General- Limited Use (CG-LU) and is used as a self-storage facility. Two parcels north is a large apartment complex that is zoned RM and contains one story apartment units. Other notable uses in the area include various commercial businesses along Silverton Rd NE.
4. Applicant proposes to change the zoning of the parcels from UD to RM with the intention to develop multi-family housing in the form of duplexes on the property.
5. Various agencies were contacted about the proposal and given an opportunity to comment. The following comments were received:

City of Salem Planning Department commented:

Zoning: The proposed zone change meets Salem's Comprehensive Plan Designation.

Lot Standards: If at such a time the properties were annexed into the City, the zoning designation of the properties would be either RM-I (Multiple Family-I), RM-II (Multiple Family-II), or RM-III (Multiple Family Residential-III), and the following lot standards would be

applicable. If the proposal does not conform to these standards, the site would be considered non-conforming at time of annexation:

- Per Table 513-2 in SRC 513.010(b), the following lot standards are applicable to the RM-I (Multiple Family-I) zone:
 - Minimum lot area: 4,000 square feet for single family use
 - Minimum lot width: 40 feet for single family use
 - Minimum lot depth: 70 feet for single family use
 - Minimum street frontage: 40 feet for single family usePer Table 513-3 in SRC 513.010(c), for single family uses the minimum dwelling unit density is 8 dwelling units per acre, and the maximum is 14 dwelling units per acre.

- Per Table 514-2 in SRC 514.010(b), the following lot standards are applicable to the RM-II (Multiple Family-II) zone:
 - Minimum lot area: 6,000 square feet for single family use
 - Minimum lot width: 40 feet for single family use
 - Minimum lot depth: 70 feet for single family use
 - Minimum street frontage: 40 feet for single family usePer Table 514-3 in SRC 514.010(c), for single family uses the minimum dwelling unit density is 15 dwelling units per acre, and the maximum is 31 dwelling units per acre.

- Per Table 515-2 in SRC 515.010(b), the following lot standards are applicable to the RM-III (Multiple Family-III) zone:
 - No minimum lot area, lot width, or lot depth requirement for single family uses.
 - Minimum street frontage: 40 feet for single family usePer Table 515-3 in SRC 515.010(c), for single family uses the minimum dwelling unit density is 28 dwelling units per acre, and the maximum is 44 dwelling units per acre.

City of Salem Community Planning and Development Department commented that the proposed development will be connected to the city's public water and sewer services.

Marion County Fire Department No. 1 commented on the case and full comments can be found in the case file.

Marion County Building Inspection commented: "No Building Inspection concerns. Permit(s) are required to be obtained prior to the development of duplex's, other structures, and/or utilities installation on private property."

Marion County Surveyor's Office commented:

1. Subdivision name must be approved per ORS 92.090.
2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. 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 Department of Public Works (DPW) Land Development Engineering and Permits (LDEP) commented:

ENGINEERING CONDITIONS

Condition A – Prior to plat approval construct utility service extensions serving each of the developable lots facing Leafwood Avenue, and a 5-foot wide sidewalk along the proposed west lot Leafwood Avenue frontage, including east termination ADA ramp.

Condition B – On the subdivision plat dedicate a Leafwood Avenue 25-foot Right-of-Way (R/W) half-width including any necessary additional R/W to accommodate a sidewalk transition extending from the existing corner pedestrian ramp and around the backside of the existing utility pole.

Condition C – Prior to plat approval, submit civil engineering plans for the development to include Leafwood Avenue facing vehicle driveway access, pedestrian frontage improvements, stormwater management facilities, utility service extensions and erosion control.

Condition D – Prior to plat approval design, permit and construct a stormwater management system serving each of the developable lots to include detention and Water Quality Treatment (WQT), and, record a stormwater Operations & Maintenance (O&M) Agreement for same. In the alternative, individual lot systems such as raingardens sized based upon county prescriptive parameters may be constructed prior to issuance of a Certificate of Occupancy on the developable lots. For the latter scenario, a template design must be submitted.

ENGINEERING REQUIREMENTS

- E. At the time of application for building permits, an Access Permit will be required for the proposed driveway aprons. Individual lot Leafwood Avenue curblin sidewalk segments will also be required.
- F. Show any necessary drainage easements on the subdivision plat.
- G. Transportation System Development and Parks charges will be assessed upon application for building permits.
- H. Installation of dry utility extensions in the public R/W generally requires a separate permit for each service through PW Engineering.
- I. A county erosion permit is required for physical development of the lots.

ENGINEERING ADVISORY

- J. Potable water and sanitary sewer service is provided by City of Salem.

All other contacted agencies either failed to respond or stated no objection to the proposal.

VII. Additional Findings of Fact and Conclusion of Law

1. Applicant has the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met.

ZONE CHANGE

2. Pursuant to MCC 16.36.070, applications shall include the signature of all owners of the subject property. The application was signed by Antonio Diaz, the owner of the property. Applicant should be prepared to provide a deed establishing such ownership if requested.

3. Pursuant to MCC 16.39.010, the hearings officer is authorized to make the initial decision on zone change applications.
4. Pursuant to MCC 16.39.040, a hearings officer's decision to approve a zone change does not become final until the Board of Commissioners adopts an ordinance implementing the decision.
5. Under Marion County Code (MCC) 16.39.050, approval of a zone change shall include findings that the change meets the following criteria:

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.*

The proposed zone of RM (Multi-family Residential) is consistent with the underlying City of Salem Comprehensive Plan designation which is also Multi-family Residential. The intent of the proposed RM zone is to provide medium to high density housing which is consistent with the description of the Salem multi-family residential section of the City's comprehensive plan. While the proposed new zoning fits the description of the underlying comprehensive plan, there are goals and policies within the comprehensive plan which must be met in order for the proposal to fully meet the criteria under MCC 16.39.050(A). These goals and policies are addressed further below.

B. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.*

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 proposal meets this criterion.

C. *The request shall be consistent with the purpose statement for the proposed zone.*

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 submitted a concept plan as part of the site plan for the application. The concept plan indicates the intended use is consistent with the proposed zone. The proposal meets this criterion.

- 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.*

The limited multiple-family residential (RL) zone is the most restrictive zone consistent with the Multi-Family Residential Comprehensive Plan designation. The RL zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. RL zones are located in areas designated multiple-family residential or equivalent designation. The proposed RM zone allows the same types of uses as the RL zone but at a higher density. The subject property is near other properties in the RM zone. The property directly north is zoned UD but has the underlying Multi-Family Residential comprehensive plan designation. The UD zone does allow for lower densities, however development standards in the RM zone are intended to provide buffering from any adjacent lower residential density zones. The proposal meets this criterion.

6. 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. The applicable policies are as follows:

Housing Goals and Policies

H 1.1 Housing types: A variety of housing types shall be allowed and encouraged throughout the Salem Urban Area, including single-family homes, accessory dwelling units, manufactured homes, townhouses, middle housing, and multifamily housing. (SUA)

H 1.2 Innovation: The development of new and innovative housing types and designs such as cottage clusters, cohousing, and multigenerational housing should be encouraged in the Salem Urban Area to diversify the housing stock and meet different housing needs.

H 1.3 Accessibility and aging in place: The development of affordable and low-income accessible housing, including homes with universal design features, should be encouraged to meet the needs of older adults and people with mental and physical disabilities, particularly in areas near services and transit.

H 1.4 Adaptability: Flexibility shall be provided in regulations to allow existing homes to convert to middle housing to adapt to changing housing needs in the future.

H 1.5 Housing diversity: New residential developments should be encouraged to incorporate a diversity of housing types and sizes to attract residents of varying income levels, lifestyles, and housing preferences.

H 1.6 Multi-dwelling ownership: Homeownership opportunities in multi-dwelling housing should be encouraged, including the creation of townhouses, condominiums, and cooperatives.

H 1.7 Specialized housing: The development of specialized housing for the area's elderly, disabled, students, and other groups with special housing needs should be encouraged.

H 1.8 Fair housing: Regulatory barriers to housing choices for people in protected classes shall be removed, and the City should coordinate with other agencies and organizations to support programs that aim to affirmatively further fair housing

Applicant proposes a change in zone to RM to construct three duplexes for a total of 7 units on the subject property. There are a variety of different housing developments within the immediate area of the subject property, including traditional single-family dwellings and 1 and 2-story apartments. The duplex configuration model shown in the proposed site plan would add to the variety of housing types in the area and stand out from other nearby development models. Additionally, the proposal has potential to be implemented in ways that allow multi-dwelling ownership through condominium or townhouse style ownership. Finally, the location is within an identified transit corridor, and therefore public transportation services are available in the area. The proposal meets the City of Salem Housing Goals and Policies.

Land Use and Urbanization Goals and Policies

L 1.1 Growth management program: The City shall maintain and facilitate an urban growth management program that guides the conversion of urbanizable land to urban uses, provides for the orderly and economically efficient extension of public services and facilities to that land, and takes into consideration the need for an adequate supply of land to meet future development requirements.

L 1.2 Land sufficiency: The City shall periodically update inventories and analyses related to housing and economic development – including the Salem Housing Needs Analysis, Economic Opportunities Analysis, and Buildable Lands Inventory – to ensure the Salem area has the amount and type of land needed to accommodate population and employment projections.

L 1.3 UGB is urbanizable: The City shall consider urbanizable areas within the urban growth boundary as available for annexation and urban development.

L 1.4 Urban growth boundary expansion: If the Urban Growth Boundary for the Salem Urban Area is expanded to include additional land for residential development, the City shall give first priority to lands that have been removed from the 1982 boundary.

L 1.5 Annexation coordination: The City shall coordinate with Marion and Polk Counties to encourage the orderly annexation to the City of Salem of the land within the Salem urban area.

*L 1.6 Annexation legislation: Legislation that removes barriers to annexing land within the Salem urban area to the City of Salem in an orderly fashion should be supported.*⁶⁵ *Land Use and Urbanization*

L 1.7 Extension of services: The City shall prohibit the extension of sewer or water service to any land for development outside city limits or County service districts. Such areas must be annexed to the City to receive those services except as may be agreed by the City and appropriate County. (SUA)

L 1.8 Septic systems: The City is the appropriate provider of sewer facilities for land within the UGB. In order to ensure the efficient development of land within the UGB and ability to redevelop land at urban densities, septic systems should be limited to situations where sewer is not physically or legally available. Approval of septic systems shall be based on verification of septic suitability by the County Sanitarian. (SUA)

Inside City Limits

Property within the City limits shall be connected to City services. Septic systems are allowed inside City limits for low density residential uses subject to standards that assure adequate opportunities for future development at urban densities subject to non-remonstrance agreements and State and Federal requirements. Existing septic systems can be maintained and repaired.

Outside City Limits

Unless a different standard has been mutually concurred upon by the City and relevant County, unincorporated property that is contiguous to City limits shall not be approved for septic systems unless city sewer service is physically unavailable. City services shall be extended to contiguous properties upon annexation of the property.

Unincorporated, non-contiguous property may have new septic systems and may repair existing septic systems. Approval of septic systems should include consideration of adequate opportunities for future development at urban densities such as future rights of way, access points, and easements.

L 1.9 Service districts: No new service districts shall be created within the Salem urban area to provide fire protection, sewer or water service. (SUA)

L 1.10 Infill: Development of vacant and underutilized land with existing urban services should be encouraged before converting urbanizable lands to urban uses and extending services beyond presently served areas.

L 1.11 Services: The City shall provide levels of services to city residents consistent with community needs as determined by the City Council, within the financial capability of the City, and subject to relevant legal constraints on revenues and their applications.

L 1.12 Sizing facility extensions: The City shall ensure that the extension of sewer, water, storm drainage, and transportation facilities within the Salem urban area conforms with the adopted growth management program. Public water and sewer facilities shall be sized and constructed appropriately to serve the areas within the urban growth boundary.

L 1.13 Facility responsibility: Where development creates a demand for new or expanded facilities and services, new development should bear a share of the costs of new or expanded facilities and services. 66 *Land Use and Urbanization*

L 1.14 Compatibility of improvements: Within the Salem urban area, the City shall coordinate with Marion and Polk Counties to ensure their improvement and construction standards are compatible with the City of Salem improvement and construction standards for street, sewer, densities cited in the Public Facilities Plan.

Applicant proposes to change the zoning on the subject property from UD to RM to allow for more intensive urban development than is allowed by the current zone. The property is within the UGB of the City of Salem and currently contains one single family dwelling. Infill development on properties with open space within the UGB of Salem is prioritized over expanding the growth boundary to encompass new areas, so the proposal is consistent with the Land Use and Urbanization goals related to areas of focus for development. The City of Salem commented that the property is located within the East Salem Sewer Service District and Jan Ree Water Service District and that the City will provide services to the site. This addresses the goals related to extending and providing urban services.

The proposal meets the Land Use and Urbanization Goals and Policies. The proposal meets the required goals and policies, and therefore fully meets the criterion of MCC 16.39.050(A).

SUBDIVISION

7. The standards and criteria for subdivisions and partitions are stated in Marion County Code Chapter 16.33. Under MCC 16.33.040, when considering a subdivision, the hearings officer shall consider whether or not it is in accordance with the adopted ordinances, comprehensive plans, and land development policies of Marion County.
8. The standards for roads, streets, and easements are listed in MCC16.33.160 through MCC 16.33.340 and include:

16.33.160 ENGINEERING STANDARDS AND REQUIREMENTS. Engineering standards and requirements, including but not limited to streets, drainage, access, easements, and thoroughfare improvements, shall be those currently approved by the Marion County department of public works.

Based on compliance with Engineering Requirements and Conditions, the proposal can be conditioned to satisfy the standards.

16.33.180 DEEDING OF RIGHT-OF-WAY ROADWAY. No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as access without first obtaining the approval of the board or its designee and delivering the deed to the board for its endorsement. No dedication is effective unless the property is accepted by the Board or its designee and recorded with the Marion County clerk's office.

Public Works Land Development, Engineering, and Permits (LDEP) requires that 25-feet of right-of-way must be dedicated on Leafwood Ave. Compliance with the requirement will satisfy this criterion.

16.33.190 CONNECTIVITY. Applicants submitting preliminary development plans shall provide for local streets oriented to or connecting with existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one-half mile of the development. Applicants shall also provide for extension of local streets to adjoining major undeveloped properties and eventual connection with the existing street system. Connections to existing or planned streets and undeveloped properties along the border of the parcel shall be provided at no greater than 600-foot intervals unless the planning director, or designee, determines that one or more of the following conditions exist:

- A. Physical or topographic conditions make a street or accessway connection impractical. Such conditions include, but are not limited to, freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided; or*
- B. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.*

No new streets are proposed as part of this application. Proposed properties will maintain frontage on either Hollywood Dr NE or Leafwood Ave NE, which are existing public right of ways.

16.33.200 DEAD-END STREETS. When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County department of public works.

No dead end streets are proposed as part of this application.

16.33.220 RADIUS AT STREET INTERSECTIONS. The property line radius at street intersections shall be to Marion County department of public works' standards.

Based on compliance with Engineering Requirements and Conditions, the proposal can be conditioned to satisfy these standards.

16.33.240 STREET GRADES. No street grade shall be in excess of 12 percent unless the commission or hearings officer finds that, because of topographic conditions, a steeper grade is necessary. The commission or hearings officer shall require a written statement from the director of public works indicating approval of any street grade that exceeds 12 percent.

No new streets are proposed. This criterion does not apply.

16.33.260 DEDICATION OF RIGHT-OF-WAY. If land to be subdivided or partitioned will cause the termination of a right-of-way of less than standard width, the applicant shall dedicate sufficient land to provide for a cul-de-sac or to increase the half (or halves) of right-of-way bordering the subject parcel to one-half of the standard width. Unless otherwise specified for an individual street in this title, standard right-of-way widths are subject to the standards of the Marion County department of public works.

Public Works Land Development, Engineering, and Permits (LDEP) is requiring that 25-feet of right-of-way must be dedicated on Leafwood Ave, therefore this criterion is met.

16.33.280 ADDITIONAL RIGHT-OF-WAY WIDTHS. Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way or slope easement may be required to accommodate the cut and fill.

There are no topographical requirements indicated by LDEP.

16.33.290 PERFORMANCE STANDARDS. Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this title, the applicant shall provide one of the following:

- A. A surety bond executed by a surety company authorized to transact business in the state of Oregon, in an amount equal to 100 percent of the construction cost of the required improvements, as verified by the county.*
- B. A verified deposit with a responsible escrow agent or trust company of cash or negotiable bonds in an amount equal to 100 percent of the construction costs of the required improvements, together with an agreement that the deposit may be disbursed only upon county approval. The agreement shall include a provision that the county shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the county engineer following an inspection by the county engineer or the engineer's authorized representative.*

- C. *An irrevocable letter of credit from one or more financial or lending institutions pledging that funds equal to 100 percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements.*

Regardless of the option chosen above, no building permits for any structures within the subdivision will be issued until all improvements have been completed by the applicant. Or, in the event the applicant fails to complete all improvements, the county may estimate the cost of completing any required improvement, call on the bond or deposit for the funds necessary to complete the improvement, and complete the improvement to the extent of the funds obtained upon call of the bond or deposit. If the amount obtained from the bond or deposit is insufficient to complete the improvement, the county may either hold the collected funds until additional funds are authorized for the improvement or expend the collected funds on a revised improvement or on a portion of the improvement as determined reasonable by the director of public works. Following final inspection, if the improvement is complete and the amount of the bond or deposit exceeds the actual cost to the county of completing the improvement, the remainder shall be released.

- D. *Maintenance Bonds. The applicant shall provide a maintenance bond in a form approved by the office of county legal counsel equal to 40 percent of the construction cost of all required improvements. The applicant shall provide the bond within 30 days after final review of the required improvements. The bond shall remain in effect for one year after the completion of construction of all required improvements. The purpose of the bond is to guarantee applicant's obligation to maintain all required improvements for a period of one year after completion of construction of all required improvements. After the expiration of the one-year period, any remaining balance on the bond shall be released. The bond shall include a provision stating that, in the event the county must take legal action to recover on this bond, and it prevails at trial or on appeal, the county shall be entitled to recover its reasonable attorneys' fees and its costs and disbursements. Nonpayment of the bond will not invalidate applicant's obligations under the bond.*

LDEP has not identified the need for a bond for assurances with respect to improvements. The criterion does not apply to this proposal.

16.33.300 UTILITY EASEMENTS. Utility easements meeting the approval to the standards of the affected utilities shall be provided to all newly created lots.

The decision can be conditioned to satisfy this standard. Utility easements must be shown on the final plat and will be reviewed by Planning and LDEP. The criterion can be met.

16.33.320 STREET OR ROAD IMPROVEMENTS. All street or road improvements including pavement, curbs, sidewalks, signage, and surface drainage shall be in accordance with the specifications and standards prescribed by the director of public works. Subdivision plats shall not have final approval until such time as the director of

public works, or his/her designee, is satisfied that the street improvements will be completed in accordance with the specifications and standards set forth by the Marion County department of public works.

No building permits within a subdivision or partition shall be issued until the Director of public works, or his/her designee, approves that the improvements have been completed or, sufficient improvement agreements and financial guarantees have been recorded.

The criterion can be satisfied as conditioned.

16.33.340 PRIVATE STREETS. In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the homeowners' association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.

No private streets are proposed; this criterion does not apply.

9. The standards for blocks and lots are listed in Marion County Code Chapter 16.33.360 through 16.33.340 and include:

16.33.360 SUBDIVISION. Block lengths and widths shall be determined after considering the following factors:

- A. The distance and alignment of existing blocks and streets adjacent to or in the general vicinity of a proposed subdivision;*
- B. Topography;*
- C. Lot size; and*
- D. Need for and direction of the flow of through and local traffic. Blocks shall not exceed 600 feet between street or road right-of-way lines unless the adjacent layout or special conditions justify greater length. Except where topographical or other physical features require otherwise, block widths shall not be less than 120 feet or greater than 400 feet.*

16.33.380 MIDBLOCK PEDESTRIAN ACCESS. Where topographic or other conditions make necessary a block of unusual length, the commission may require midblock pedestrian walks with a right-of-way at least 10 feet in width which shall be hard surfaced through the block, and extending from street curb to street curb.

There are no blocks being created in this subdivision request.

16.33.400 LOT SIZE. All lots approved under this chapter shall have sufficient area to be consistent with the intent of the Comprehensive Plan and to provide adequate area for the intended structures and uses, all setbacks, access and spacing required for water

supply and waste water disposal. Lots to be served by public or privately owned sewage collection and disposal system must meet the requirements and have approval of the Oregon State Department of Environmental Quality before being recorded or sold. State regulations, soil types, drainage, terrain, and location may be included as part of the criteria used by the state or county in determining appropriate lot sizes for lots using subsurface disposal of sewage. Lot size and dimensions shall be as prescribed in the corresponding zone.

The RM zone contains a minimum property size of 6,000 square feet, a minimum lot width of 40 feet, and a depth of 70 feet. In this proposal, the lot with the existing dwelling will be approximately 9,900 square feet, and the new lots that will house the duplexes will be approximately 6,006 square feet. Applicant states that the resulting parcels having the dimensions of 57.20 feet by 105.0 feet, meeting the lot dimension requirements. In addition, the maximum density is no more than one dwelling unit per 1,500 square feet of lot area, which the proposal has met. The application and site plan provide show the development meeting the applicable lot sizes, dimensions, and density.

16.33.420 CURVED FRONT LOT LINES. When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.

No curved lot lines are proposed, but if they are, they shall be held to this standard.

16.33.440 LOT LINE. Side lot lines shall be as close to right angles to the front street line as practicable. Unless otherwise approved, rear lot lines shall be not less than one-half the width of the front lot lines.

Proposed lot lines are as close to right angles as possible. The criterion is met.

10. The standards for sewage, water, and utilities are listed in Marion County Code Chapter 16.33.460 through 16.33.560 of the Marion County Code (MCC) and include:

16.33.460 SEWAGE DISPOSAL. All lots or parcels shall be served by an authorized sewage disposal system. Subsurface sewage disposal for individual parcels shall meet the requirements of the Department of Environmental Quality (DEQ) and the Marion County building inspection division. Those subsurface sewage systems that are used by a community, sanitary district, industry, or incorporated area must be authorized by the Department of Environmental Quality (DEQ) via the Marion County building inspection division. Installation and maintenance shall be in accordance with the Department of Environmental Quality's regulations and requirements. The commission, director, or hearings officer may require connection to an existing sewage collection and treatment system regardless of lot suitability for subsurface disposal if the commission, director or hearings officer deems it necessary and provided the connection is available.

The lots in the subdivision will be served by the City of Salem sewage disposal system.

16.33.480 WATER SUPPLY. All lots or parcels shall be served by an authorized public or private water supply system.

- A. *Public or Private Systems. Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the operator of the water system.*

The proposed development will be served by the Jan Ree Water Service District. The criterion is met.

16.33.500 SEWER AND WATER LINES AND CONNECTIONS. All proposed subdivisions within established or proposed urbanizing areas of municipalities, service districts and other incorporated communities, where, upon concurrence from the municipality, district, or incorporated community that public sewer and water services are imminent, shall be developed with water and sewer lines that meet the specifications of the director of the Marion County department of public works.

The proposed development will be connected to the City of Salem's sewer district. The criterion is met.

16.33.520 UNDERGROUND UTILITIES. All permanent utility service to lots in a subdivision within an established urban growth boundary shall be provided from underground facilities and no overhead utility service to a subdivision shall be permitted. The subdivider shall be responsible for complying with the requirements of this section and shall:

- A. *Obtain a permit from the director of public works for the placement of all underground utilities.*

The City of Salem provides water to the lots. The criterion is met.

- B. *Make all necessary arrangements with utility companies and other persons or corporations affected by the installation of such underground lines and facilities in accordance with the rules and regulations of the public utility commissioner of the State of Oregon.*

Applicant agrees to the requirement and it will be a condition of approval. The criterion is met.

16.33.540 UNDERGROUND UTILITIES EASEMENTS. Underground easements for utilities and overhead utility facilities shall be provided by the subdivider and set forth on the final plat. Each easement shall be a minimum of 10 feet in width except on the perimeter of the subdivision where the minimum width shall be five feet, and when possible, such easement shall be centered on or bordering a lot line. The subdivider

shall provide five-foot utility easements on both sides of all road or street rights-of-way of 60 feet or less.

Applicant intends to comply with this standard and it will be reviewed with the subdivision plat.

16.33.560 STREET LIGHTING. Proposed subdivisions located within established street lighting district boundaries shall submit street lighting plans from the appropriate power company to the director of public works for approval. All provisions for wiring for underground installation shall be completed before the final street improvement is made.

No public streets are being created, this standard does not apply.

11. Access standards are listed in Marion County Code Chapter 16.33.680 and state:
- 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.*

All of the proposed lots have frontage on either Hollywood Dr NE or Leafwood Ave NE and will each have a driveway that is served by the street upon which the lot has frontage. Each lot exceeds 20 feet of frontage on a public right-of-way. No private access easement is being proposed.

12. Marion County Code Chapter 16.33.1020 addresses time limits for filing and recording a plat and states:

When the subdivider has expressed intent to develop a subdivision in phases or stages, the first phase of the final plat, or, if not to be developed in phases or stages, the completed final plat must be filed with the director by the first day of the 24th month following the date of detailed approval or said detailed approval shall be deemed null and void. The final plat shall be approved by public officials as required by law and recorded within 180 days following the date the plat is submitted to the director. Extensions to either time deadline may be approved by the director upon submittal of written justification prior to the expiration of the time limit.

If Applicant decides to develop the subdivision in phases, it must be expressed in writing prior to submitting the plat for the first phase. This requirement will be made a condition of approval.

13. Marion County Planning Staff recommends approval of the proposal and recommends that if the hearings officer grants the Applicant's application, certain conditions be applied as necessary for the public health, safety, and welfare.

VII. Decision

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of zone change to change the zone for UD (Urban Development) to RM (Multi-Family Residential) and to subdivide a .64 acre parcel into 4 lots located at 3200 Hollywood Drive NE, Salem. Therefore, the Hearings Officer **GRANTS** the zone change and subdivision application, subject to the conditions set forth below. The conditions are necessary for the public health, safety and welfare.

1. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. All future development on the property must satisfy the specific development standards in the RM zone, chapter 16.04 and the general development standards found in Chapter 16.27 of the Marion County Code.
3. Public Works Land Development, Engineering and Permits requests that the following conditions be applied:

ENGINEERING CONDITIONS

Condition A – Prior to plat approval construct utility service extensions serving each of the developable lots facing Leafwood Avenue, and, a 5-foot wide sidewalk along the proposed west lot Leafwood Avenue frontage, including east termination ADA ramp.

Condition B – On the subdivision plat dedicate a Leafwood Avenue 25-foot Right-of-Way (R/W) half-width including any necessary additional R/W to accommodate a sidewalk transition extending from the existing corner pedestrian ramp and around the backside of the existing utility pole.

Condition C – Prior to plat approval, submit civil engineering plans for the development to include Leafwood Avenue facing vehicle driveway access, pedestrian frontage improvements, stormwater management facilities, utility service extensions and erosion control.

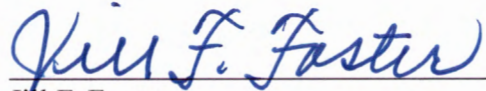
Condition D – Prior to plat approval design, permit and construct a stormwater management system serving each of the developable lots to include detention and Water Quality Treatment (WQT), and, record a stormwater Operations & Maintenance (O&M) Agreement for same. In the alternative, individual lot systems such as raingardens sized based upon county prescriptive

parameters may be constructed prior to issuance of a Certificate of Occupancy on the developable lots. For the latter scenario, a template design must be submitted.

VIII. Referral of Decision

This document is a referral to the Marion County Board of Commissioners. A hearings officer's decision to approve a zone change does not become final until the Board adopts an ordinance implementing the decision. Any aggrieved or affected person may file with the Marion County Clerk (555 Court Street NE, Salem, Oregon), a written request for a public hearing before the Board within fifteen (15) days of the date of mailing of this decision. The request must be accompanied by and will not be accepted without payment of a \$500.00 fee. If the Board denies the appeal, \$300 of the fee will be refunded. The Board has discretion whether to hold a public hearing. After fifteen (15) days, the Board may take final action on this application without conducting another public hearing.

DATED this 5th day of May, 2026.



Jill F. Foster

Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Antonio Diaz
3200 Hollywood Drive NE
Salem, OR 97305

Shea Romero
425 Ewald Ave. SE
Salem, OR 97302

City: Salem *(via email)*
apanko@cityofsalem.net

Area Advisory Committee #1:
laurelhines@gmail.com
arkaye2@gmail.com

Roger Kaye
Friends of Marion County
P.O. Box 3274
Salem, OR 97302

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

Pudding River Watershed Council *(via email)*
anna@puddingriverwatershed.org
cleanpuddingriver@gmail.com

County Agencies Notified:

Assessor's Office *(via email)*
assessor@co.marion.or.us

Tax Collector *(via email)*
NMcVey@co.marion.or.us

Surveyor's Office *(via email)*
KInman@co.marion.or.us

Fire District: *(via email)*
Salemfire@cityofsalem.net

Planning Division *(via email)*
breich@co.marion.or.us
abarnes@co.marion.or.us
jspeckman@co.marion.or.us
ediaz@co.marion.or.us
gpeden@co.marion.or.us

Building Inspection *(via email)*
pwolterman@co.marion.or.us
Kaldrich@co.marion.or.us
CTate@co.marion.or.us

Public Works LDEP Section *(via email)*
jrasmussen@co.marion.or.us
mclddep@co.marion.or.us
JShanahan@co.marion.or.us

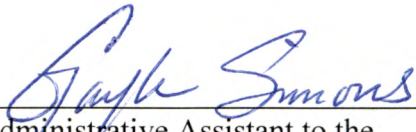
School District: *(via email)*
Fridenmaker_david@salemkeiz.k12.or.us

Code Enforcement *(via email)*
CGoffin@co.marion.or.us

State Agencies Notified:

askenergy@Oregon.gov
Jennifer.b.ringo@odfw.oregon.gov
park.info@oregon.gov
carrie.landrum@state.or.us
Mike.I.mccord@wrdd.state.or.us
Gregory.j.wcker@oregon.gov

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 5th day of May, 2023 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer