

Attention Property Owner: A land use proposal has been submitted for property near where you live or property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
PARTITION CASE NO. 20-013**

APPLICATION: Application of Albert and Gail Fahlman to partition two parcels containing 15,937.40 square feet each into three parcels containing 7,170 square feet, 4,091 square feet and 4,125 square feet each in a RS (Single Family Residential) zone located at 210 Elma Ave SE, Salem. (T7S; R2W; Section 30DC; tax lot 04800 and 4801).

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 **June 18, 2022**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed division is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5038) and shall contain the notation that the survey is the result of Partition Case 20-013. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. The applicant is advised that a Partition Plant Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. Public Works Land Development Engineering requests that the following conditions be required for approval of this land use case:

Condition A - Prior to re-plat approval, design, permit and construct a ¼- street urban improvement along the property frontage to the City of Salem Collector 'A' standard.

Condition B - Prior to re-plat approval; provide an engineered site development plan that addresses incorporation of a drainage conveyance pipe from the rear lot (proposed lot 2) to Elma Avenue, or other acceptable alternative.

Condition C - Prior to re-plat approval, notarize a Road Maintenance Agreement acknowledging joint responsibility for upkeep of the private easement, to be recorded concurrently with the re-plat.

4. Prior to filing the plat, the applicant shall provide evidence to the satisfaction of the Planning Director, of meeting the provisions of the "Marion County Fire Code Applications Guide" as adopted by the Marion County Fire District #1.
5. **A list of road names must be been submitted to the Marion County Planning Division to name the easement that will serve all properties,** and in coordination with the 9-1-1 Emergency System, a name will be chosen. The name must be shown on the final partition plat, and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Public Works **prior to the plat being recorded.**

6. The proposed private access easement shall have a minimum width of 25 feet.

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

7. 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:

8. 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).
9. 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.
10. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #5.

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. **June 18,**

2020. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 19, 2020** 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 Salem Area Comprehensive Plan and zoned RS (Single Family Residential) by Marion County. The purpose of this designation and the corresponding RS (Single Family Residential) zone is to provide areas for residential development on individual lots at urban densities.
2. The properties are rectangular in shape and approximately 50 feet wide, with frontage on Elma Ave SE to the west, and approximately 150 feet deep. Tax lot 4800 does not contain any structures or dwellings. Tax lot 4801 contains one multi-purpose building. The properties were created through Partition 06-18 and are, therefore, considered legal parcels for land use purposes.
3. Properties to the north and east, are zoned Multi-Family Residential (RM) and contain single family dwellings and apartments. Adjacent properties to the west and south are zoned RS and developed with single family dwellings. Properties further out continue with the zoning trend and are all residential.

4. The applicant proposes to partition two parcels containing 15,937.40 square feet each into three parcels containing 7,170 square feet, 4,091 square feet and 4,125 square feet each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use decision:

ENGINEERING CONDITIONS

Condition A - Prior to re-plat approval, design, permit and construct a 1/4- street urban improvement along the property frontage to the City of Salem Collector 'A' standard.

Requirement to construct frontage improvements for partitioned property is in accordance with MCC 16.33.320. Nexus is the proposed addition of vehicular and pedestrian traffic to a road in need of widening and urban improvements. Please note that MCPW has approved engineering plans on record for the frontage work from the prior 2-lot partitioning for which intended improvements were not completed. The prior partitioning was allowed to go through by deferring completion with a financial guarantee. Once the improvements are completed, the financial guarantee may be released back to the original depositor or their estate. Improvements are anticipated to consist of a total 17-foot paved half-width, curb/gutter, property line sidewalk, landscape strip, existing drainage catch basin grate adjustments, driveway connection, utility service laterals, utility phone pedestal relocation and ADA transition ramps. The aforementioned engineering plans depict two accesses; however, it is likely that this PW Engineering can approve a modification to the currently proposed single access without requiring redesigned plans. Please note that use of the plans moving forward is contingent upon verification of existing planimetric features including utilities.

Condition B - Prior to re-plat approval; provide an engineered site development plan that addresses incorporation of a drainage conveyance pipe from the rear lot (proposed lot 2) to Elma Avenue, or other acceptable alternative.

This is intended to provide for disposal of roof drain discharge from the NE lot.

Condition C - Prior to re-plat approval; notarize a Road Maintenance Agreement acknowledging joint responsibility for upkeep of the private easement, to be recorded concurrently with the re-plat.

PW Engineering is able to furnish a suitable template, upon request.

ENGINEERING REQUIREMENTS

1. The development shall share a single access to Elma Avenue.
2. An Access Permit will be required upon application for building permits for each buildable lot.
3. Transportation System Development and Parks Charges (SDCs) will be assessed upon application for building permits.
4. Show applicable access and utility easements on the plat.
5. As part of the dwelling construction for the rear (NE) lot, it will be required to install and tie into the storm water conveyance pipe to Elma Avenue, or approved alternative.
6. Utility work in the Elma Avenue public right-of-way requires Utility Permits.

Marion County Surveyor's Office 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 current or updated title report must be submitted at the time of review.
5. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

Marion County Assessor's Office provided comments related to taxes on the subject property.

Salem-Keizer Public Schools provided comments related to the addition of students to their school system, they do not anticipate more than 1 new student due to this development.

Marion County Fire District No. 1 provided comments related to fire access, fire flow, fire safety, road widths, turning radius, load capacities and premise identification. Comments are attached.

All other agencies either failed to comment or have no comment.

6. In order to partition land in an RS (Single Family Residential) zone, the standards and criteria in Chapter 16.02.120 of the Marion County Code (MCC) apply:
 - A. *Lot Area. The minimum lot area for a single-family dwelling in a subdivision approved after the effective date of the ordinance codified in this title, is 4,000 square feet when located within the Salem/Keizer area urban growth boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)*
 - B. *Lot Dimensions. Except as provided in MCC 16.26.800 for planned developments, the width of a lot shall be at least 60 feet; provided, that within the Salem/Keizer urban growth boundary the width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet.*

The applicant proposes to divide the properties into three parcels. All of these lot areas exceed the 4,000 square foot minimum in the RS zone. All parcels exceed the minimum lot width of 40 feet and lot depth of 70 feet. Therefore, the proposal meets the criteria for dividing land in the RS zone.

7. 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.*

The applicants are proposing an access easement to serve the new parcels. The requirements in MCC 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. Under the provisions in the Marion County Address and Street Name Ordinance, the easement must be named and all properties accessing the easement must be addressed from the roadway. A list of names has not been submitted to the 911 Dispatch Center for review, the applicant did not submit names with the partition application. This will be made a condition of approval. Once a road name has been approved, the name must be shown on the plat and prior to the recording of the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works.

8. Based on the above findings, the proposed partitioning complies with the criteria for a partitioning in the RS zone and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: June 3, 2020

If you have any questions please contact Austin Barnes 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.