



Marion County **OREGON**

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MARION COUNTY PLANNING COMMISSION

SUBDIVISION: SUB23-001

OWNER: Dura Built Construction, LLC

REQUEST: Request for conceptual and detailed approval to subdivide a 0.50-acre parcel into 4 lots in a RS (Residential Single Family) zone.

LOCATION: 4140 Durbin Avenue SE, Salem (T7S; R2W; Section 31BD; Tax Lot 2300).

DATE: February 24, 2023

REPORT OF THE FACTS:

1. The subject property is in the Salem Urban Growth Boundary, designated Single-Family Residential in the Salem Comprehensive Plan and zoned RS (Residential Single Family). The RS zone permits subdivisions under the provisions of the RS (Single Family Residential) zone where sewer and water are available and the development complies with the provisions of Chapter 16.33 of the Marion County Code (MCC).
2. The property is located on the south side of Durbin Avenue SE, approximately 236 feet west of its intersection with Elma Avenue SE. The property contains a dwelling which will remain in its current location upon development. Properties surrounding the subject parcel are zoned RS (Residential Single Family), all developed with single family dwellings.
3. The applicant is proposing to subdivide the property into four lots that each will be developed, with single family dwellings. The smallest proposed lot is 4,002 square feet while the largest lot is proposed to be 4,003 square feet. The proposed lots will be served by a 25-foot-wide private access and utility easement from Durbin Avenue SE.

AGENCY COMMENTS:

Marion County Surveyor made the following comments:

Subdivision name must be approved per ORS 92.090.

Must be surveyed and platted per ORS 92.050.

Subdivision plat must be submitted for review.

Checking fee and recording fees required.

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.

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 Tax Assessor noted that a potential additional tax liability may exist which may need to be paid before a subdivision would be approved. According to ORS 92.095, all delinquent taxes and interest as well as taxes which have become a lien during the tax year must be paid before the plat shall be recorded.

Public Works Land Development and Engineering Permits (LDEP) made the following comments:

ENGINEERING CONDITIONS

Condition A – Prior to plat approval, design, permit and construct ¼ to ½-street urban widening frontage improvements to the City of Salem Collector 'A' standard, and including utility service extensions.

As authorized under MCC 16.33.320. Note that in terms of pavement widening it may be required to sawcut, remove and replace suspect isolated alligatored pavement area(s) up to the road centerline.

Condition B – Prior to plat approval, design, permit and construct a stormwater management system serving all four lots that includes detention and WQT. Individual lot WQT systems such as raingarden may be constructed prior to issuance of a Certificate of Occupancy on the developable lots.

Stormwater detention is required at 0.5-acre or more of development. A WQT component will also be required at 0.25-acre or more of development for PW Engineering permit applications received on or after February 15, 2023.

Condition C – Prior to plat approval, construct two paved vehicle parking spaces on the parent lot contiguous with/served by the private access easement.

To satisfy MCC 16.30.170(1).

Condition D – Prior to plat approval, notarize a private road maintenance agreement to be recorded concurrently with the plat.

In accordance with MCC 16.33.340.

ENGINEERING REQUIREMENTS

E. A total of one shared access approach to Durbin Avenue will be allowed; the existing driveway approach shall be closed. The east edge of the driveway apron approach will need to be adjusted a minimum of 3.5 feet from the east property line such that the east wing is contained entirely within the property frontage.

F. Show any necessary access and utility and drainage easements on the subdivision plat.

G. Transportation System Development and Parks charges will be assessed upon application for building permits.

H. Installation of utility extensions in Durbin Avenue R/W generally requires a separate permit for each service through PW Engineering.

- I. An erosion prevention component of the PW Engineering Major Construction Permit will be required from Marion County for total ground disturbances of 0.25-acre plus. Continuation of erosion permit coverage is required through/during the home construction process.

ENGINEERING ADVISORIES

- J. The private access easement would be classified as a Fire Apparatus Access Road per OFC, based on its proposed design length.
- K. Potable water is provided by Suburban East Salem Water District.
- L. Sanitary sewer is provided by City of Salem.

Salem-Keizer School District commented that the property is served by Four Corners Elementary School, Houck Middle School, and South Salem High School. High School students in this location are eligible for school transportation services while the Elementary and Middle School students are in the walk zone; see file for full comments.

Marion County Building Inspection commented that permits are required to be obtained prior to any future development and/or utilities on private property.

Marion County Fire District 1 commented on fire code requirements that can be found in the file.

City of Salem, Public Work Department commented that the subject property is located within the East Salem Sewer Service District and the Suburban East Salem Water District. Any future connections to this sewer district will require an annexation agreement to be filed with the City of Salem, where one has not already been done so.

All other contact agencies either failed to comment or stated no objection to the proposal at the time this report was written.

ANALYSIS AND CONCLUSIONS:

- 4. **Roads, Streets and Easement:** Standards for this section are listed in Chapter 16.33.160 through 16.33.340 of the Marion County Code (MCC). Those that apply to this proposal 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.

As outlined in their comments, the Land Development, Engineering, and Permits Division (LDEP) will require street and roadway improvements to be developed in compliance with engineering standards.

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.*

The proposed development is an in-fill development and will use an existing street with a private easement for access.

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.

LDEP will review and require any required Public Utility Easements.

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.

In their submitted comments, LDEP identified necessary frontage street improvements which include designing, permitting, and constructing ¼ to ½-street urban widening frontage improvements to the City of Salem Collector ‘A’ standard, and including utility service extensions.

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.

Per comments submitted by LDEP, a road maintenance agreement for the private streets will be required.

5. **Blocks and lots:** These standards are listed in MCC 16.33.360 through 16.33.440 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.*

This is an infill subdivision and will not have blocks.

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. Lot size and dimensions shall be as prescribed in the corresponding zone. In the RS zone, MCC 16.02.120 states:

- 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.

As proposed, all of the lots exceed the 4,000 square foot minimum lot size, the 40-foot minimum width, and 70 foot minimum depth standards. In addition, dwellings placed on the resulting lots will meet all the applicable property line setbacks.

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.

The proposal meets this requirement.

6. **Sewage, water, and utilities:** These standards are listed in MCC 16.33.460 through 16.33.560 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 City of Salem commented that in order for these new homesites to be served for sewage disposal, an annexation agreement will need to be filed with the City of Salem; see file for full comments.

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

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 City of Salem commented that in order for these new homesites to be served with city water, an annexation agreement will need to be filed with the City of Salem; see file for full comments.

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.
- 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.

A condition of approval will require utilities to meet this standard.

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.

This will be made a condition of any approval.

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.

The property is not within the boundary of an established lighting district.

7. **Access standards:** These standards are listed in MCC 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.

The proposal is to create a four-lot subdivision; one of the lots will have over 20 feet of frontage on Durbin Avenue SE which is a public right-of-way. The remaining three lots will be provided access by a 25-foot access and utility easement. The private roadway being created for this development will meet or exceed the above standards. The approved name for the private roadway is **Tally Way SE**. Prior to the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works.

8. **16.33.1020 TIME LIMIT FOR THE FILING AND RECORDING OF A PLAT.** *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 the applicant decides to develop the subdivision in phases it must be expressed in writing prior to submitting the plat for the first phase.

STAFF RECOMMENDATION:

Based upon a review of the subdivision and zoning provisions of the Marion County Urban Zone Code, and comments received from affected agencies, staff recommends that the proposed subdivision be granted both conceptual and detailed approval, subject to the following conditions:

1. The 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. 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.
5. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.
6. All easements (utility, drainage, etc.) required by reviewing agencies shall be shown on the final plat.
7. Prior to submission of the final plat, the applicant shall submit evidence of compliance with the development, water supply, and access standards of Marion County Fire District No. 1.
8. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the above-mentioned conditions have been satisfied:

Condition A – Prior to plat approval, design, permit and construct ¼ to ½-street urban widening frontage improvements to the City of Salem Collector ‘A’ standard, and including utility service extensions.

As authorized under MCC 16.33.320. Note that in terms of pavement widening it may be required to sawcut, remove and replace suspect isolated alligatored pavement area(s) up to the road centerline.

Condition B – Prior to plat approval, design, permit and construct a stormwater management system serving all four lots that includes detention and WQT. Individual lot WQT systems such as raingarden may be constructed prior to issuance of a Certificate of Occupancy on the developable lots.

Stormwater detention is required at 0.5-acre or more of development. A WQT component will also be required at 0.25-acre or more of development for PW Engineering permit applications received on or after February 15, 2023.

Condition C – Prior to plat approval, construct two paved vehicle parking spaces on the parent lot contiguous with/served by the private access easement.

To satisfy MCC 16.30.170(1).

Condition D – Prior to plat approval, notarize a private road maintenance agreement to be recorded concurrently with the plat.

In accordance with MCC 16.33.340.

9. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development dust suppression measures, such as water trucks, shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
10. All utilities shall be placed underground.
11. 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.
 - 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.
12. The name approved for the easement extending south from Durbin Avenue SE is **Tally Way SE**, which shall be shown on the final subdivision plat.