

BEFORE THE MARION COUNTY HEARINGS OFFICER

AMENDED

In the Matter of the Application of) Case No. ZC 24-005
BILL STANLEY on behalf of)
DON EDWARDS) **ZONE CHANGE**

DECISION

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the application of Bill Stanley on behalf of Don Edwards to change the zone from UD (Urban Development) to RM (Multiple Family Residential) on a .58 parcel located at 4450 Blueberry Lane NE, Salem (T7S; R2W; Section 7DC; Tax Lot 501).

II. Relevant Criteria

Standards and criteria relevant to this Application are found in Marion County Code 17.123, Marion County Code 16.04, 16.15, 16.39, the Salem Area Comprehensive Plan and Statewide Planning Goals.

III. Public Hearing

A public hearing was held on this matter on November 7, 2024. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

- | | |
|------------------|---------------------------------|
| 1. Alex Siefer | Marion County Planning Division |
| 2. Gerald Horner | Representative for Applicant |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing.

IV. Executive Summary

The application of Bill Stanley on behalf of Don Edwards seeks to change the zone from UD (Urban Development) to RM (Multiple Family Residential) on a .58 parcel located at 4450 Blueberry Lane NE, Salem. The property is in the Salem Urban Growth Boundary (UGB) and is designated Multiple Family Residential in the Salem Area Comprehensive Plan. However, the parcel is currently zoned UD (Urban Development). The hearings officer APPROVES the application as it meets the criteria of the Marion County Code, and goals and policies of Statewide Planning.

V. 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 0.58 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 south side of a named private road easement, Blueberry Lane NE. The easement branches off 45th Ave NE, to the west, approximately 1000 feet north of the intersection of 45th and Silverton Rd NE. The property is rectangular in shape and approximately 180 feet of the north property line abuts Blueberry Lane. The property is predominantly flat and is currently undeveloped.
3. Surrounding properties in all directions are within the Salem UGB but are still in the jurisdiction of Marion County. Properties to the south are zoned Multiple-Family Residential (RM) and are developed with multi-family housing units, with the exception of the parcel immediately bordering the south property line, which is zoned UD and is operated as a square dance center. The property immediately to the east is zoned UD contains a single-family dwelling. The remainder of the properties to the east are a mix of single-family residential (RS), limited multi-family residential (RL), and multi-family residential (RM) zoned lots with the respective developments on each lot. The properties to the north are zoned RM and contain multi-family housing developments. Finally, the property to the west is part of the Chemeketa Community College campus and is zoned Public (P). However, the specific area is used for horticulture/agriculture with the only structures being greenhouses. There are no traditional campus buildings with classrooms within at least 1000 feet of the subject property. Other notable uses in the area include the First Free Methodist Church and various commercial businesses along Silverton Rd.
4. The applicant is requesting to change the zoning of the parcels from UD to RM with the intention to develop multi-family housing in the form of four-plex's on the property.
5. The Planning Division requested comments from various governmental agencies:

City of Salem Planning Department commented that the proposed zone change is consistent with the Salem Area Comprehensive Plan.

Marion County Department of Public Works (DPW) Land Development Engineering and Permits (LDEP) commented:

Engineering Advisories:

- A. PW Engineering has no action items for the proposed Zone Change itself.
- B. The following are anticipated requirements for future development:
 - a. Submission of civil engineering plans

- b. Widen Blueberry Lane to provide a 20-foot paved surface
- c. Five-foot wide pedestrian sidewalk on south side of Blueberry Lane from subject property to 45th Avenue
- d. Stormwater detention including water quality treatment on the subject property, connecting to existing storm drain stub in Blueberry Lane
- e. Erosion sequencing plan
- f. Stormwater & Erosion permitting

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

V. Additional Findings of Fact and Conclusion of Law

1. Applicant has the burden of proving compliance with all applicable standards and criteria.
2. The requirements for zone changes are found in MCC (Marion County Code) Section 16.39.050 and include the following:
 - 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 criterion under A. These goals and policies are addressed below.

- B. *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."* The 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. This criterion is satisfied.

C. 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. This criterion is met.

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 RL zone is the most restrictive zone consistent with the Multi-Family Residential Comprehensive Plan designation. The proposed RM zone allows the same types of uses as the RL zone but at a higher density. The subject property is adjacent to other developed properties within the RM zone. Development standards in the zone are intended to provide buffering from any adjacent lower residential density zones. This criterion is met.

3. 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 two “four-plexes” for a total of 8 units on the property. There are a variety of different housing developments within the immediate area of the subject property, including traditional single-family dwellings, 2-story apartments, and multi-story apartments. The “four-plex” configuration model shown in the proposal 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 a more intensive urban development than is allowed by the current zone. The property is within the UGB of the City of Salem and is currently an undeveloped lot. Development on undeveloped properties 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. Additionally, Applicant has provided a letter from the City of Salem stating 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 goals and policies required under the criterion, and therefore fully meets the criterion as set forth in this section.

4. Marion County Planning Staff recommends approval of the proposal and recommends the following conditions be applied:
 - (a) The applicant shall obtain all permits required by the Marion County Building Inspection Division.
 - (b) 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.

The proposed conditions are necessary for the public health, safety, and welfare.

VI. Decision


It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change from UD (Urban Development) to RM (Multiple Family Residential) on a .58 parcel located at 4450 Blueberry Lane NE, Salem. Therefore, the hearings officer GRANTS the zone change 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.

VII. Referral of Decision

This document is a referral to the Marion County Board of Commissioners. The Board will make the final determination on this Application. Any aggrieved or affected person may file with the Marion County Clerk (555 Court Street NE, Salem), a written request for a public hearing before the Board within fifteen (15) days of the date of mailing of this recommendation. 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 at Salem, Oregon this 14th day of January, 2025.



Jill F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

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

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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 14th day of January, 2025 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer