

Attention Property Owner: A land use proposal has been submitted for property near where you live or near 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/ADJUSTMENT CASE NO. 24-009**

APPLICATION: Application of Yuri Zaichenko and Helena Zaichenko to partition a 0.41-acre lot into three parcels containing a 5,000 square foot parcel, a 4,900 square foot parcel and a 7,960 square foot parcel, and to adjust the rear setback of the existing dwelling from 14 feet to 5 feet in a RS (Single-Family Residential) zone located at 4273 Munkers St SE Salem (T7S; R2W; Section 31DB; Tax lot 2700).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Partition and Adjustment, subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

EXPIRATION DATE: This approval is valid only when the final partitioning plat is recorded by **September 6, 2026** (two years), unless an extension is granted. The effective period may be extended for an additional year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (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 use is for land use purposes only. Due to other requirements, such as well requirements, septic requirements, and drain field replacement areas, this parcel may not be able to support the proposed use. To ensure 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 resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.
2. Per Marion County Surveyor's Office the parcels must be surveyed and monumented, and per ORS 92.050 the plat must be submitted for review. Checking and recording fees will be required and a title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports. Any easement by separate document will need to be submitted for review and recorded with the mylar.
3. The final partition plat shall depict an access easement benefiting the subject parcels which meets the requirements of MCC 16.33.680.
4. Marion County Land Development and Permits (LDEP) has requested the following conditions be included:

ENGINEERING CONDITIONS

Condition A – Prior to plat approval, provide a recordable reciprocal access and utility easement document over #4291 Munkers Street under similar ownership benefiting the proposed developable parcels as well as #4291 Munkers Street itself to accommodate access for potential future subdividing.

Condition B – On the partition plat depict a reciprocal access and utility easement over the parent parcel adjacent to that which is to be recorded over #4291 Munkers Street.

Condition C – Prior to plat approval, obtain an Access Permit, and under the Permit permanently close the existing #4273 parent driveway approach, and establish a shared paved access approach slightly off-centered on the proposed reciprocal access easement to allow space for utilities.

Condition D – Prior to plat approval, obtain necessary permits and install utility service extensions from within the public right-of-way to the parent parcel front property line to serve the developable parcels.

Condition E – Prior to plat approval, design by a civil engineer, permit and construct a storm drain conveyance pipe from within the public right-of-way existing storm drain pipe to the parent parcel front property line with the intent to extend it to serve the developable parcels at the time of application for building permits.

5. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System has named the proposed private access easement **Crux Ln SE**. 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 Department of Public Works **prior to the plat being recorded**.

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

6. After the final partition plat been recorded, no alteration of property lines shall be permitted without first obtaining approval from the 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 another 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the Marion County Fire District No. 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.
8. Prior to recording the plat, all taxes due must be paid to the Marion County Tax Office. The Tax Office may be contacted at (503) 588-5215 for more information.
9. The applicants should contact Marion County LDEP (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's 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 150-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 in the Marion County Planning Division, 5155 Silvertown Road NE, Salem, by 5:00 p.m. on **September 6, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 9, 2024**, unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject property is located within the City of Salem Urban Growth Boundary (UGB). The City of Salem Comprehensive Plan designates the property as Single-Family Residential. Marion County correspondingly has zoned the property as Single-Family Residential (RS). The intent of this zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located northwest of the intersection of Munkers St SE and Eldin Ave SE. The property consists of approximately 0.41 acres. All surrounding properties are similarly zoned Single-Family Residential. However, the property to the southeast, across Munkers St SE, is within the city limits of Salem.
3. The subject parcel contains one dwelling built in 1953 and a shed. The property is generally flat and developed as a typical single-family property would be. The property was created as part of the Hager's Second Addition Subdivision and is considered legal for land use purposes.
4. The applicant proposes to divide a 0.41-acre lot into three parcels containing a 5,000 square foot parcel, a 4,900 square foot parcel and a 7,960 square foot parcel, and to adjust the rear setback of the existing dwelling from 14 feet to 5 feet
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County LDEP Division commented:

ENGINEERING CONDITIONS

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Condition E – Prior to plat approval, design by a civil engineer, permit and construct a storm drain conveyance pipe from within the public right-of-way existing storm drain pipe to the parent parcel front property line with the intent to extend it to serve the developable parcels at the time of application for building permits.

Marion County Surveyor's Office commented:

- 1) Parcels must be surveyed and monumented.
- 2) Per ORS 92.050, plat must be submitted for review.
- 3) Checking fee and recording fees required.
- 4) A title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.
- 5) Other comments specific to this Planning Action: Any easement by separate document will need to be submitted for review and recorded with the mylar.

Marion County Building Inspection commented: "Building Inspection recommends any new property lines or easements be placed 3 feet or more from any existing residential structures. If any less, additional fire resistive

materials may be required to be installed on the exterior side of existing exterior walls for fire separation purposes. Prior to any development and/or utilities installation(s) on private property, permits would be required to be obtained.”

Marion County Fire District No. 1 provided comments related to fire code standards, which are available in the case file.

Marion County Tax Office provided information regarding the subject property’s taxes.

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

6. Partitions within an Urban Growth Boundary (UGB) have requirements set forth in Marion County Code 16.33. Other requirements, such as the minimum lot size, are set forth in the Single-Family Residential chapter 16.02. Additional general requirements can be found in chapters 16.26 through 16.34.
7. The partition proposal was reviewed following the standards set forth in MCC 16.02:

16.02.120 Lot area and dimensions.

- 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.*

The property is located within the Salem/Keizer area urban growth boundary. The proposed parcels are approximately 5,000 and 4,900 square feet each. Both parcels will be above the minimum lot size of 4,000 square feet. The criterion is met.

- 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 property is located within the Salem/Keizer urban growth boundary. The proposed parcels have a width of approximately 50 and 49 feet each. Both parcels will be above the minimum lot width of 40 feet. Both proposed parcels will have a depth of approximately 100 feet. Both parcels will be above the minimum lot depth of 70 feet. The criterion is met.

8. In addition, MCC 16.33 contains the following requirements:

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 an identification for emergency vehicles in accordance with Chapter 11.55 MCC, Naming and Addressing Roads/Property.

Parcel 1 has frontage on a public right-of-way and an existing driveway, while an access easement is being proposed for Parcel 2 and 3. As a condition of approval, the access easement will need to meet all required standards. Therefore, the criterion is met.

9. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. It states:

The development standards in the applicable zone and the development requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for adjustments:

- (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The zone is Single Family Residential, and the area is developed with single family homes. The subject parcel will still function as a residential parcel with the reduced setback and it is not expected to cause any adverse impacts on uses in the area. The proposed setback reduction is between the already existing dwelling, owned by the applicants (proposed "Parcel 1"), and the south property line of proposed "Parcel 2". Any potential impact will be limited to the proposed parcels of this application. The criterion is met.

- (b) *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

A reduction in the setback for the existing dwellings' rear yard from 14 feet to 5 feet will not adversely affect the health or safety of persons in the vicinity. Marion County Fire District No. 1 made no comment regarding a reduced setback. The criterion is met.

- (c) *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*

This is the minimum necessary as the setback for parcel 2 will be 5 feet opposite this adjusted setback, which is the minimum side yard setback and fits in with existing development. The criterion is met.

- (d) *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.*

This adjustment maintains the intent of the setback provision by preserving a 5 foot setback, which is the same as code requires for a side yard. The criterion is met.

10. Based on the above findings, it has been determined that the proposed partition satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: August 22, 2024

If you have any questions regarding this decision 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.