

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
PROPERTY LINE ADJUSTMENT CASE NO. 24-005**

APPLICATION: Application of James & Sandra Seyler and Ardell & Kimberly Bailey for a property line adjustment to adjust the property lines on a 2.01-acre parcel and a 3.31-acre parcel to create a 2.02-acre parcel and a 3.30-acre parcel in an AR (Acreage Residential) zone located at 9046 Daleview Rd SE and 598 Sanrodee Drive SE, Salem (T7S; R2W; Section 36A; Tax lots 600, 900 & 1000).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions.

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **April 13, 2026** (two years). 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 proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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. **Property line adjustment deeds shall be recorded with the county clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments is recorded by the applicants with the Marion County Clerk.**
2. Per the Marion County Surveyor's Office, a re-plat (in the form of a partition plat) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line. The re-plat must comply with all provisions per ORS 92.185 (6). The properties must be surveyed and platted per ORS 92.050, and the plat submitted for review. Survey checking fee and recording fees required. A current or updated title report must be submitted at the time of review.
3. The re-plat shall combine tax lots 900 and 1000 into one lot. See finding #2 for more information.
4. 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.

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

5. After the property line adjustment has been completed, 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 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 the agencies mentioned in the findings below be contacted to identify restrictions or necessary permits.

6. Prior to recording the deeds 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).
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 (Paula Smith at MCFD#1/(503) 588-6513 as the contact person). Fire District access standards may be more restrictive than County standards.

APPEAL PROCEDURE: The Marion County Zone Code provide 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 Silverton Road NE, Salem, by 5:00 p.m. on **April 15, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 16, 2024**, unless further consideration is requested.

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

1. The subject properties are designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The primary intent of the designation is to provide for rural residential development at a density sustainable with rural services.
2. Tax lot 1000 is located at the terminus of Sanrodee Dr SE and tax lot 600 is on the southern side of Daleview Rd SE. Tax lot 1000 was created as Lot 11 in block 1 in the Lincolnwood subdivision on July 27, 1973. Tax lot 600 was created as Lot 1 in block 4 of the Lincolnwood No 2 subdivision on April 5, 1976, both lots are therefore considered legal for land use purposes.

There was a survey done in 1983 to re-establish missing corners between Lot 11 (tax lot 1000) and the western neighboring Lot 12 in block 1 of the Lincolnwood subdivision. This resulted in an adjustment of the western boundary line of Lot 11, increasing the area of Lot 11 by 0.06-acres, and the creation of a new tax lot (T7S; R2W; Section 36A; Tax lot 900). There was no official land use case submitted with Marion County in conjunction with this adjustment of the property lines. MCC 17.172.120.A requires that when a property line to be adjusted is part of a division of land previously approved by Marion County, it shall be subject to the approval of the planning director regardless of the size of the adjustment. While this means that the legal lot containing tax lots 900 and 1000 is non-compliant with Marion County Code, the proposed new property line adjustment will require a replat. This replat shall be used to rectify the adjustment made in 1983 to show tax lots 900 and 1000 as one legal lot in addition to the proposed adjustment. This shall be made a condition of approval.

3. Tax lots 600 and 1000 each contain one dwelling. Tax lot 600 also contains a detached garage on the southern border of the lot.
4. All adjacent properties are zoned AR and consist of small acreage homesites.

5. The applicants are proposing to adjust the existing property line so that part of an existing retaining wall that currently crosses the shared property boundary is located entirely on tax lot 600.
6. Several agencies were contacted for comments on the proposal.

Marion County Surveyors Office commented:

1. "A re-plat (in the form of a partition plat) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line. Survey checking fee required at the time of review."
2. Re-plat: (Re-configuration of lots or parcels and public easements within a recorded plat)
 - a. Must comply with all provisions per ORS 92.185 (6)
 - b. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
 - c. Checking fee and recording fees required.
 - d. A current or updated title report must be submitted at the time of review.

The Marion County Tax Assessor's Office provided information about the taxes on the properties.

Marion County Building commented:

"Based on the information provided in the application and site plan submitted, not enough information is shown regarding existing structures on both properties as it relates to the property line adjustment. If the proposed property line is established 3 feet or less from any existing residential structures regulated by the state building code on either property, additional fire resistive materials may be required to be installed on the existing structures, which permits would be required to be obtained prior to this installation. Consultation with a plans examiner with Marion County Building Inspection is recommended if this situation is encountered."

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

7. No specific criteria exist for property line adjustments in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres, except when a numerical suffix has been applied. Therefore, in this AR zone, the minimum lot size is two acres. When a property line adjustment proposes to alter non-conforming parcels, the proposed configuration must not result in additional non-conformance.

Both existing lots are above the minimum parcel size of 2.0-acres for the AR zone. The proposed property line adjustment would result in the smaller of the two parcels (tax lot 600) increasing in size by 0.01-acres. Both parcels will remain above the 2.0-acre minimum size, meaning there is no resulting increase in non-conformance. The criterion is met.

8. Under MCC 17.172.120(E) Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey if a survey is required. Deed recording reference numbers shall be noted on the required survey.
9. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: 3/29/2024

If you have any questions regarding this decision contact Alexander Seifer 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.