

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. 22-010**

APPLICATION: Application of Rob Keene on behalf of Adam Mims and Mariah McAllister, for a property line adjustment to adjust the property lines on a 0.48-acre parcel and a 0.46-acre parcel to create a 0.94-acre parcel in an AR (Acreage Residential) zone located at 35463 Francis Street SE, Lyons. (T8S; R4E; S32BD; Tax lots 1000 and 1100).

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 20, 2024**. 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. The applicants shall have the resulting parcels surveyed per ORS 92.060(7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 22-010. (Final Plat Instruction enclosed).
3. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
4. Prior to recording the deeds, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
5. 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.
6. 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 Finding #5 below be contacted to identify restrictions or necessary permits.

7. 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).

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) based on 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 20, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 21, 2022**, 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. The properties are located on the northern end of Francis St SE at the roads end. The properties are currently vacant after being burned by the Beachie Creek Fire. Both parcels were created as a part of the Randall's Elkhorn Subdivision therefore, both are recognized as legal separate parcels for land use purposes.
3. All adjacent properties to the south and west are zoned AR and are mostly vacant after the fire but will be developed with single family homes. Properties to the north and east are zoned TC (Timber Conservation) and consist of publicly owned lands and land in private ownership developed with a dwelling to the north.
4. The applicants are proposing to adjust the property lines on a 0.48-acre parcel and a 0.46-acre parcel to create a 0.94-acre parcel.
5. Marion County Building Inspection Division commented that permits would be required for future development.

Marion County Surveyors Office commented:

1. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.
2. Must comply with all provisions per ORS 92.185 (6)
3. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
4. Checking fee and recording fees required.
5. A current or updated title report must be submitted at the time of review.

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

Marion County Septic Inspection commented:

"From County record it appears this site has had an evaluation approval; however, it was never installed. Apply for a septic installation permit when ready to build on this property. A site evaluation is needed if the applicant desires the drain field be in a different area from what was evaluated in 1986."

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

6. There are no specific criteria for reviewing property line adjustments within an AR zone. Section 17.128.070 of the Marion County Code (MCC) requires a minimum lot size of two acres. Both existing parcels are currently under the minimum lot size of 2 acres and would remain so after the property line adjustment. Structures will maintain adequate setbacks from property lines with adequate access to a roadway. Subject to conditions, the property line adjustment complies with the standards of the AR zone.
7. 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.

The Marion County Surveyor commented that a survey (replat) is required, therefore, this will be made a condition of approval.

8. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: April 5, 2022

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.