

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. 22-021**

APPLICATION: Application of Matthew & Taleatha Kuenzi and Noble Built Homes LLC for a property line adjustment to adjust the property lines on a 1.96-acre parcel and a 2.15-acre parcel to create a 2.048-acre parcel and a 2.063-acre parcel in an AR (Acreage Residential) zone located at 8735 Sunnyview Rd NE, Salem (T7S; 2W; Section 13CB; Tax lots portion of 700 & 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 **June 10, 2024**. The effective period of an approved application may be extended for an additional year subject to approval of an extension (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 proposed uses is for land use purposes only. Due to well, septic, and drain field replacement area requirements, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with 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. 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. 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 acknowledgement. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat (see findings and conclusions).

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

3. 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 any 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 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:

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 Silverton Road NE, Salem, by 5:00 p.m. on **June 10, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 11, 2022**, unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which 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 both this designation and zone is to allow for development of acreage homesites in a low-density environment in order to maintain quality of environment and compatibility with other rural uses.
2. Adjacent properties to the north, east, and west are zoned AR (Acreage Residential). Adjacent properties to the south are zoned EFU (Exclusive Farm Use). The AR parcels are mostly already developed with acreage homesites. The EFU parcels to the south are predominately occupied by large scale farm operations.
3. Tax Lot 700 was recently the subject of a recorded partition plat approved pursuant to Partition case 21-022. New tax lot numbers have not yet been assigned to the partitioned parcels. This property line adjustment application proposes to adjust the property lines of the recently created Parcel 1 of Partition Plat 2022-21. Therefore, for the purposes of this application, Tax Lot 1000 shall be referred to as "Parcel A" and Parcel 1 of Partition Plat 2022-21 shall be referred to as "Parcel B."
4. The subject properties are located approximately 0.15 miles east of the intersection of Howell Prairie Road NE and Sunnyview Road NE. "Parcel A" is developed with one dwelling and multiple accessory structures. "Parcel B" is undeveloped.
5. "Parcel A" is a single legal parcel per the previously approved partition case P06-47. That partition was approved based on a Measure 37 claim M06-16. The Measure 37 claim was approved by Order No 06-162 by the Marion County Board of Commissioners; the original approval allowed for the parent parcel to be partitioned into parcels. Later, when Measure 49 was passed, a Vested Rights Determination was required to determine if sufficient progress was made on their partition for it to be considered vested and allow for completion of their Measure 37 waiver. Order No 07-415 determined that the applicant's did have a common law vested right. No maximum or minimum parcel size was established throughout the Measure 37/49 case. No further changes to "Parcel A" were recorded by deed (or otherwise) since, and so the property has remained legal. "Parcel B" is a single legal parcel per the previously approved partition case P21-022. No further changes to "Parcel B" were recorded by deed (or otherwise) since, and so the property has remained legal. Both properties are considered legal parcels for the purposes of land use per Marion County Code 17.110.427.
6. The applicants' initial survey and application are proposing to adjust the property lines on a 1.961-acre parcel (Parcel A) and a 2.15-acre parcel (Parcel B) to create a 2.048-acre parcel (Parcel A) and a 2.063-acre parcel (Parcel B).
7. Marion County Surveyor's Office commented:

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. 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 acknowledgement. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.

The re-plat must comply with all provisions per ORS 92.185 (6). Must be surveyed and platted per ORS 92.050, and the plat submitted for review. A checking fee and recording fee will be required. A current or updated title report must be submitted at the time of review.

8. Marion County Assessor's Office provided information regarding taxes on the subject properties.
9. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.
10. No specific criteria exist for property line adjustments in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres, and the new parcels are consistent with this standard. As mentioned in Finding #5, no maximum or minimum parcel size was established by the Measure 37/49 claim; therefore, the proposed adjustment does not violate the conditions of that claim. Furthermore, the proposed property line adjustment will increase the setback for an existing accessory structure on "Parcel A," thereby bringing the structure into conformity with current zoning code.
11. 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.
12. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
13. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in an AR zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 26, 2022

If you have any questions regarding this decision contact Daniel Jansen 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.