

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/ADJUSTMENT CASE NO. 19-012

APPLICATION: Application of Brendan McMullen to adjust the property lines on a 6,363 square foot parcel, a 6,246 square foot parcel, a 2,327 square foot parcel, and a 1,313 square foot parcel to create an 8,475 square foot parcel, a 4,988 square foot parcel, a 1,803 square foot parcel, and a 1,313 square foot parcel and an adjustment to allow two of the resulting parcels to contain less than 4,000 square foot minimum lot size in an RS (Single Family Residential) zone located at 4532, 4538 and 4540 Boulder Drive SE, Salem (T7S; R2W; Section 31DA; tax lots 2900, 3000, 3100, and 3500).

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

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustment shall be recorded by the applicants with the Marion County Clerk by **May 15, 2021**. 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 septic, well and drainfield replacement areas, 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 applicant shall have the parcels replatted per ORS 92.185(6) and ORS 92.050. The replat shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment/Adjustment Case 19-012. (Final Plat Instructions enclosed).
2. Public Works Land Development Engineering requests that the following conditions are required for approval of this land use case:

Condition A – Prior to Building Permit issuance, Applicant shall apply for and obtain a Construction Permit to construct frontage improvements along the frontage of the developable lot that are anticipated to include sidewalk and the replacement of any damaged curbing, and an ADA compliant ramp at the corner of Shoshone Court SE and Chippewa Court SE. Prior to final building inspection, acquire final inspection approval of the frontage improvements.

Condition B – As a Condition of final PLA survey approval, dedicate a 20-foot corner radius at the corner of Shoshone Court SE and Chippewa Court SE such that the sidewalk and ADA compliant corner ramp are within public right-of-way.
3. A minimum 14 foot rear yard shall be maintained on all parcels.
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 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 Finding #5 be contacted to identify restrictions or necessary permits.

6. Prior to recording the plat all taxes due must be paid to the Marion County Assessor Tax Section (contact them at (503) 588-5215 for verification of payments).
7. The applicants should contact Marion County Land Development and Engineering (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 Silverton Road NE, Salem, by 5:00 p.m. on **May 15, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 16, 2019** 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 Single Family Residential in the Salem Area Comprehensive Plan and zoned RS (Single Family Residential) under the jurisdiction of Marion County. The major purpose of this designation and the corresponding RS (Single Family Residential) zone is to provide areas for residential development on individual lots at low urban densities.
2. The properties are located on the corner of Boulder Drive SE, Shoshone Court SE and Chippewa Court SE. The properties are lots in Santana Village Phase 1A and Santana Village Phase 4, both legally platted subdivisions.
3. The properties in all directions are zoned RS and in residential development.
4. The applicants are proposing to adjust the property lines on a 6,363 square foot parcel, a 6,246 square foot parcel, a 2,327 square foot parcel, and a 1,313 square foot parcel to create an 8,475 square foot parcel, a 4,988 square foot parcel, a 1,803 square foot parcel, and a 1,313 square foot parcel. An adjustment would allow two of the resulting parcels to be less than the 4,000 square foot minimum lot size.
5. Marion County Surveyor commented: "A re-plat, in the form of a partition plat, is required. A property line adjustment deed shall be recorded with the Marion County Clerk's Office, following recording of the re-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 acknowledgement. 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. Checking fee and recording fees required. A current or updated title report must be submitted at the time of review.”

Public Works Land Development and Engineering Permits (LDEP) requested the following Conditions are included in the land use case:

“Condition A – Prior to Building Permit issuance, Applicant shall apply for and obtain a Construction Permit to construct frontage improvements along the frontage of the developable lot that are anticipated to include sidewalk and the replacement of any damaged curbing, and an ADA compliant ramp at the corner of Shoshone Court SE and Chippewa Court SE. Prior to final building inspection, acquire final inspection approval of the frontage improvements.

Nexus for the above Condition is alteration of a parcel to create a developable lot, and is in accordance with Marion County Code (MCC) 16.02.100 and 16.33.320 whereby improvements within the public right-of-way shall be completed to the satisfaction of Marion County Public Works.

Condition B – As a Condition of final PLA survey approval, dedicate a 20-foot corner radius at the corner of Shoshone Court SE and Chippewa Court SE such that the sidewalk and ADA compliant corner ramp are within public right-of-way.

Nexus for the above Condition is creation of a buildable lot, and is in accordance with Marion County Code (MCC) 16.02.100 and 16.33.220 whereby right-of-way dedication at a street intersection is to meet Marion County Engineering Standards.”

Engineering Requirements:

“C. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #97-39R and 98-40R, respectively.

D. In accordance with Marion County Code 11.10, driveway permits will be required for any new access or change in use of the existing access to the public right-of-way. The applicant shall be required to apply for a driveway “Access Permit” and construct any improvements required by the permit. Driveways must meet sight distance, design, spacing, and safety standards. Access should be taken from Chippewa Court to meet intersection spacing standards.

E. Both a Marion County Work in Right-of-Way Permit and a Utility Permit are required in order to install or relocate utilities within County-controlled public right-of-ways. It is noted that a utility light pole exists within the public right-of-way just north of the corner ramp of Shoshone Court SE and Chippewa Court SE in the space where sidewalk would need to be placed. Possible coordination with PGE to move the pole will be necessary, unless additional R/W width is dedicated or a sidewalk easement recorded.”

Marion County Assessor’s Office provided information regarding taxes on the subject properties.

6. In order to adjust property lines in an RS (Single Family Residential) zone, the standards and criteria in Chapter 16.02.120 of the Marion County Code (MCC) apply:

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. (See Chapter 16.27 MCC for density limitations.)*

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 applicants request to adjust the property lines on a 6,363 square foot parcel, a 6,246 square foot parcel, a 2,327 square foot parcel, and a 1,313 square foot parcel to create an 8,475 square foot parcel, a 4,988 square foot parcel, a 1,803 square foot parcel, and a 1,313 square foot parcel. There is a triplex on three of the lots; one lot is

undeveloped. The width of the lots with the triplex on them will not change. The depth of those lots will be at least 70 feet. The undeveloped lot would increase in depth to an average of 70 feet and a buildable width of approximately 50 feet. The property line would move toward the triplex while maintaining a minimum rear yard depth of 14 feet. The proposed lots are of sufficient size and shape to meet the development standards outlined in the Marion County Zone Code. The proposal meets #6(A) and (B).

7. The development standards in the RS 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*
 - B. *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*
 - 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*
 - 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.*
8. The proposal is to reduce the size of one lot from 1,688 square feet to 1,314 square feet and one lot from 2,327 square feet to 1,803 square feet. Since the triplex will continue to meet the required minimum setbacks and is an established residential use, no significant adverse effects are anticipated from the adjustment. The proposal is the minimum necessary to permit the property to the south to be developed with a dwelling. The applicant states that lots originally had no minimum lot size and that the triplex will be able to still meet the required setbacks with the new lot size.

There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the residential use would be consistent with existing uses in the vicinity. There is no indication the proposal would create health and safety issues in the vicinity. The degree of adjustment requested appears to be the minimum necessary to allow the adjacent property to be developed with a dwelling. The proposal meets the criteria in #7.
9. 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.
10. Based on the above findings, the applicant's proposal meets the criteria for a property line adjustment and an adjustment in a RS zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore
Director-Planning Division

Date: April 30, 2019

If you have any questions please contact Brandon Reich 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.