

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. 23-013**

APPLICATION: Application of Juana Vasquez Tello for a property line adjustment to adjust the property lines on a 0.19-acre parcel, and a 0.07-acre parcel to create a 0.26-acre parcel a CC (Community Commercial) zone located at 5847 Stayton Road SE, Jefferson (T9S; R2W; Section 33BA; Tax Lots 800 & 900).

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 11, 2025**. 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 drain field 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 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: Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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.
3. Permit(s) are required to be obtained prior to any development, utility installation, and/or placement of a manufactured home on private property. The applicant is advised that they should contact Marion County Building Division and Marion County Land Development Engineering & Permits and review the comments found in the findings and conclusions of this decision.

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

4. 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.

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 **April 11, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 12, 2023**, 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 Commercial in the Marion County Comprehensive Plan and correspondingly zoned CC (Community Commercial). The primary intent of both this designation and zone is to allow for commercial uses within urban unincorporated communities, rural communities, and rural service centers.
2. The properties are located within the unincorporated community of Marion at the corner of Stayton Road SE and Marion Road SE. The properties are accessed off the north side of Stayton Road SE at that intersection. An unnamed alley/public right-of-way appears to bound the properties on the eastern side as well. Marion Creek is nearby to the north on an adjacent property, and some of the property may contain hydric soils. Adjacent properties to the north, east, and across the street to the south are also zoned Community Commercial. Properties to the west across Marion Road are zoned Acreage Residential.
3. Per Tax Assessor records, Tax lot 800 contains a single-family dwelling. The dwelling on this parcel was built approximately around 1940 and would therefore pre-date current zoning regulations. It therefore appears to be a legal dwelling. Tax lot 900 is undeveloped, although a food cart was recently placed on the property.
4. Tax lot 800 has existed in its current configuration since prior to September 1, 1977, per a warranty deed recorded in Volume 670, Page 4 of the Deed Records of Marion County, Oregon. No further changes to tax lot 800 were recorded by deed (or otherwise) since, and so the parcel has remained legal. Tax lot 900 has existed in its current configuration since prior to September 1, 1977, per a warranty deed recorded in Volume 672, Page 154 of the Deed Records of Marion County, Oregon. No further changes to tax lot 900 were recorded by deed (or otherwise) since, and so the parcel has remained legal. **These two parcels** are legal for the purposes of land use per Marion County Code 17.110.427.
5. Marion County Building Inspection Division commented:

No Building Inspection concerns with the proposed removal of the lot line between the two parcels. Permit(s) are required to be obtained prior to any development, utility installation, and/or placement of a manufactured home on private property.
6. Marion County Surveyor's Office commented:

Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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.

7. Marion County Assessor's Office provided information regarding taxes on the subject properties.
8. Marion County Land Development Engineering commented:

Engineering Advisories

- A. It appears the Stayton Road driveway was widened without a Permit to approximately 40 feet to accommodate a food cart business. Maximum width for a residential approach per PW Engineering standards is 24 feet measured along the property line. At the time of application for building permits, an Access Permit may be required to narrow the approach. It may also be required to pave the apron in consideration of additional traffic generated by operation of the food cart.
- B. With regard to future placement of a dwelling, measurement of required property setbacks to the dwelling will be referenced from the following Special Setbacks measured from centerline of each respective R/W:
 - a. Side Alley, unopened Local Road, existing 10-foot R/W half-width, required 30-foot Special Setback.
 - b. Marion Road, Major Collector, existing 30-foot R/W half-width, required 40-foot Special Setback.
 - c. Stayton Road, Arterial, existing 30-foot R/W half-width, required 50-foot Special Setback.
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. The applicant is applying to remove a property line and combine two adjacent parcels in a Community Commercial zone.
11. There are no specific criteria for property line adjustments in the Community Commercial zone. However, the proposal should ideally conform with, or increase conformance with, the development standards of the CC zone. These standards are found in MCC 17.143.060:

1. Height. The maximum height of any structure shall be 35 feet.

The proposed property line adjustment does not affect, nor is affected by, this standard.

2. Setbacks.

- a. *Front Yard. No structure other than a fence, wall, or sign shall be located closer than 20 feet from a public right-of-way. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (see Chapter 17.112 MCC).*
- b. *Side and Rear Yard. No side or rear yard setback is required where abutting property is zoned for commercial or industrial use. Where not abutting a commercial or industrial zone, structures other than fences, walls, and signs shall comply with the following setbacks:*
 - 1. Residential or public zone: 10 feet;*
 - 2. Farm or forest zone: 30 feet.*
- c. *Parking. Parking spaces may abut public rights-of-way and side and rear property lines adjacent to commercial, industrial, or public zones, subject to the landscaping requirements in MCC 17.143.070. Parking spaces shall be set back a minimum of 10 feet from residential, agricultural, and forest zones.*

The proposed property line does not increase conformance to these standards. However, any future structures will be able to better meet these setbacks on the resultant larger parcel.

3. Lot Area.

- a. *Rural Communities. The building site shall be of sufficient size to accommodate on-site sewage disposal and water systems unless these services are provided by a public or community source or can be accessed by easement, required parking, landscaping, and yard areas.*

- b. Urban Communities. The minimum size of any new lot or parcel shall be one acre.*

The subject properties are within a Rural Community. This adjustment will combine the lots and increase the size so that the parcel shall be of sufficient size to accommodate on-site sewage disposal and water systems. The applicant intends on replacing the existing dwelling on the parcel, which makes it necessary for the parcel to grow to accommodate these improvements. Therefore, conformance is increased, and the standard is met.

4. Parcel Coverage.

- a. Rural Communities. No more than 60 percent of a lot or parcel shall be covered by all buildings located thereon.*
- b. Urban Communities. No more than 75 percent of a lot or parcel shall be covered by all buildings located thereon.*

The subject properties are within a Rural Community. This adjustment will increase the lot size, and thus reduce the overall lot coverage of existing structures. Therefore, conformance is increased, and the standard is met.

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. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 27, 2023

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.