

**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 MODIFIED DECISION  
PARTITION/PROPERTY LINE ADJUSTMENT CASE NO. 23-021**

**APPLICATION:** Application of Randall and Rhonda Miller and the Villalobos Family Trust for a property line adjustment to adjust the property lines on a 6.48-acre parcel and a 3.98-acre parcel to create a 2.46-acre parcel and an 8.0-acre parcel in an AR (Acreage Residential) zone located at 7836 Burton Pl SE and 2628 Happy Valley Way SE, Salem (T8S; R2W; Section 02C; Tax Lots 200 & 100).

**DECISION:** The Planning Director for Marion County has **MODIFIED AND APPROVED** the above-listed Property Line Adjustment application subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

**EXPIRATION DATE:** Title transfer instruments and any necessary survey plat (see conditions of approval) accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **September 28, 2025 (two years)**. 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. All parcels shall have a minimum parcel size of two acres.
2. Per the Marion County Surveyor's Office, 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 acknowledgment. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.

**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:

4. Prior to recording the plat 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 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 **September 28, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 29, 2023**, 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 both this designation and zone is to allow for development of acreage homesites to meet the housing needs of a segment of the population desiring the advantages of a rural homesite.
2. Tax lot 200 is located approximately 200 feet east of the intersection of 78<sup>th</sup> Ave SE and Burton Place SE, while tax lot 100 is located at the end of Happy Valley Way SE, which is east of tax lot 200. Both parcels have one legal dwelling which were built in 1996. Each parcel has several accessory/farm structures. Tax lot 200 has a canal/ditch running along part of its southern property line.
3. Tax lot 200 is Lot 11 in Block 3 of Macleay Country Acres No. 2, an approved subdivision platted in 1978. Tax lot 100 was created as Parcel 1 of Partition Case P94-051. Neither subject property has been altered since its legal creation, and therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, these parcels are legal for land use purposes.
4. Surrounding properties in all directions are zoned Acreage Residential and developed with homesites.
5. The applicants were proposing to adjust the property line between their parcels to give tax lot 100 approximately 0.02 acres so that it may partition in the future, while simultaneously partitioning 4.0 acres of tax lot 200. After further consideration the applicants decided to drop the partition and only pursue a property line adjustment.

The applicants' modified proposal is to adjust the southerly 4.02 acres from tax lot 200 to tax lot 100 so that tax lot 100 may end up with 8.0 acres to better facilitate future divisions of land.

6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- A. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).
- B. 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 acknowledgment.

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

Marion County Building Division commented: “No Building Inspection concerns. Permits are required to be obtained prior to development and/or utilities installation on private property, if proposed.”

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

All other contacted agencies either failed to comment or stated no objection to the 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. When a property line adjustment proposes to alter non-conforming parcels, the proposed configuration must not result in additional non-conformance.

In this AR zone the minimum lot size is two acres. Both parcels started above 2-acres in size and are proposed to remain above the 2-acre minimum. Therefore, the criterion is met.

8. Based on the above findings, the applicants’ proposal meets the criteria for a property line adjustment. The property line adjustment request is, therefore, **MODIFIED AND APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: September 13, 2023

If you have any questions regarding this decision contact Nicole Inman 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.