

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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/PARTITION CASE NO. 18-005**

**APPLICATION:** Application of Ray and Sheila Kottre and Larry and Janice Keudell to adjust the property lines on a 6.0 acre parcel and a 3.91 acre parcel to create a 6.22 acre parcel and a 3.69 acre parcel and then to divide the resulting 6.22 acre parcel into two parcels of 3.11 acres and 3.11 acres each in an AR-3 (Acreage Residential - 3 Acre Minimum) zone located at 8612 Shaw Square SE and 8400 Silver Falls Hwy. SE, Aumsville (T8S; R2W; Section 14D; tax lots 100 and 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 **March 23, 2020**. 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. **Prior to recording the deeds or filing the plat**, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
2. **Prior to recording the deeds or filing the plat**, the property line adjustment for PLA 17-037 must be completed to the satisfaction of the Marion County Surveyor's Office.
3. The applicants shall record a property line adjustment deed with the Marion County Clerk's Office per ORS 92.190 (4), prior to recording the re-plat.
4. The applicants shall have the parcels surveyed and platted per ORS 92.050. The survey shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment/Partition Case 18-005. (Final Plat Instructions enclosed).
5. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.
6. **Prior to recording the deeds or filing the plat**, the applicant shall submit to Marion County Planning a static water level measurement of all existing wells prior to recording the plat. Water level measurement forms are available from Marion County Planning.

7. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 18-005. Following plat approval, it shall be recorded with the Marion County Clerk (plat instructions enclosed).
8. 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. All resulting parcels shall be a minimum of 3 acres.

**Prior to issuance of building permits on the resulting parcels:**

9. Prior to issuance of building permits, the applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
10. Prior to issuance of building permits, the applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.

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

11. 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 below be contacted to identify restrictions or necessary permits.

12. Prior to recording the deed all taxes due must be paid to the Marion County Assessor Tax Section (contact them 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 **March 23, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 24, 2018** unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which decision was based are noted below.

1. The subject property is designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR-3 (Acreage Residential – 3 Acre Minimum). The primary intent of this designation and zone is to provide for rural residential development at a density sustainable with rural services. The property is also in the Sensitive Groundwater Overlay Zone (SGO).
2. The properties are located southwest of the intersection of Silver Falls Hwy. SE and Shaw Square Rd. SE. The larger parcel was the subject of PLA17-037, and is developed with a dwelling, accessory structure, well and septic system. The smaller parcel was created by approval of Partition #99-23 and is undeveloped. Both parcels are considered legal parcels for land use purposes.

3. Adjacent properties to north, across Silver Falls Hwy., are zoned EFU (Exclusive Farm Use) and devoted to farm use. All other nearby properties are zoned AR-3 and consist of lot development with single family dwellings.
4. The applicants are proposing to adjust the property lines on a 6.0 acre parcel and a 3.91 acre parcel to create a 6.22 acre parcel and a 3.69 acre parcel and then to divide the resulting 6.22 acre parcel into two parcels of 3.11 acres and 3.11 acres each.
5. Marion County Surveyors Office commented “Current or updated title report, survey checking fee, and recording fee required. Must be surveyed per ORS 92.060(7), and the survey submitted for review. Property line adjustment deeds shall be recorded with the Marion County Clerk’s Office prior to submitting the re-plat per ORS 92.190 (4). Deed recording reference numbers shall be noted on the plat. The deeds 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. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]. The re-plat shall be recorded per ORS 92.050. PLA 17-037 must be completed before the completion of PLA-P 18-005.”

Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

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

6. Chapter 17.181 of the Marion County Code (MCC) establishes criteria for partitioning property in a Sensitive Groundwater Overlay zone (SGO). In order to meet criteria in Chapter 17.181 MCC, the applicant submitted a “Hydrogeology Report” which indicates there is a sustainable long-term supply of groundwater for the proposed development. Peer review of the Hydrogeology Report was positive. The County requires a Declaratory Statement be recorded with the property deed to notify the applicants and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. In addition, the applicant must meet the water level monitoring requirements in MCC 17.181.120. This includes a static water level measurement of all existing wells prior to recording the plat, and at least one static water level measurement prior to the issuance of a building permit in any new or existing wells intended as the water supply for the lot. This requirement is only for lots created by partitions recorded after January 1, 1998. This will be made a condition of approval.
7. 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 3 acres for an AR-3 zoned property – the resulting parcels meet this minimum. Structures will maintain adequate setbacks from property lines with adequate access to a roadway.
8. 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.
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. All resulting parcels shall be a minimum of three acres in size.
10. Based on the above findings, the applicant’s proposal meets the criteria for a property line adjustment/partition in an AR-3 zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: March 8, 2018

If you have any questions please contact Lisa Milliman 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.