

**NOTICE OF DECISION  
PROPERTY LINE ADJUSTMENT CASE NO. 18-014**

**APPLICATION:** Application of David Hillesland, Heather Hillesland, and Christine Ferron-Prine to adjust the property lines on a 0.47 acre parcel and a 9.98 acre parcel to create a 1.47 acre parcel and an 8.98 acre parcel in an UT-1 (Urban Transition – 1 Acre Density) zone and a CR (Commercial Retail) zone located at 11227 Grove St, Mehama. (T9S: R2E Section 18BB; tax lots 1400 and 1500).

**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 1, 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. **Property line adjustment deeds shall be recorded with the Marion County Clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments are recorded by the applicants with the Marion County Clerk.**
2. Deed recording reference numbers shall be noted on the required survey.
3. The applicants shall have the parcels surveyed per ORS 92.060 (7). 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 Case 18-014. (Final Plat Instructions enclosed).
4. **Prior to recording the deeds,** the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
5. 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:

6. 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.

7. 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 **June 1, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 2, 2018** 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 Residential and Industrial in the City of Lyons Comprehensive Plan and zoned UT-1 (Urban Transition – 1 Acre Density) and CR (Commercial Retail) under the jurisdiction of Marion County.
2. The properties are located on the south side of North Santiam Highway SE and on the west side of Grove Street SE. The 9.98 acre parcel identified as tax lot 1400 contains a dwelling, accessory structure, well, and septic system. The parcel was created in its current configuration by Property Line Adjustment #17-010 (PLA17-010) and is considered legally created for land use purposes. The 0.47 acre parcel identified as tax lot 1500 is developed with a commercial shop. The parcel is described in deeds as far as January 15, 1959 and is considered a legal parcel for land use purposes.
3. Adjacent properties to the north, east and south are zoned UT-5 and consist of single family dwellings. Property to the west is zoned EFU (Exclusive Farm Use) and in farm use.
4. The applicants are proposing to adjust the property lines on a 0.47 acre parcel and a 9.98 acre parcel to create a 1.47 acre parcel and an 8.98 acre parcel. The purpose is to allow placement of a dwelling on the smaller lot and have room on the parcel for a septic system and replacement drain field. The applicants are proposing to move the property line to include approximately one acre of the adjoining property, which is located in a UT zone.
5. 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 Surveyors Office commented: “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 prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. 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. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]”

The City of Lyons commented that they have no objections to the property line adjustment.

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

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits are required.

6. The criteria for reviewing property line adjustments within a UT zone are listed in Chapter 16.13.310 of the Marion County Code. These criteria are:

- (a) *Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*
- (b) *The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*
- (c) *When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*
- (d) *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan. The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*
- (e) *New lots shall have no dimension less than 80 feet.*
- (f) *When a lot located in a residential plan designation and occupied by a non-residential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*
- (g) *The minimum lot size, in acres, for lots in non-residential plan designations is the numerical suffix added to the UT zone (i.e. one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added - five acres.*

7. At this time, no additional right-of-way dedication was requested by Public Works. One of the resulting parcels will remain less than five acres in size and the other will remain larger than 5 acres in size. The applicants are proposing to move the property line to include one acre of UT zoned land in the smaller lot. This will allow a dwelling to be built on the property that will be occupied by the owner of a business being operated on the CR zoned portion of the property. The reconfiguration would not affect future development potential. The standards in #6(a) and (b) are met. The smaller parcel is zoned Commercial Retail and contains a commercial shop and the larger parcel contains a dwelling. The larger property is located in a residential plan designation and the smaller parcel is located in an industrial plan designation in the Lyons Comprehensive Plan. No new parcels are being created. The applicant's proposal will comply with the criteria listed in #6 (c), (d), (e), (f), and (g).
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.
10. Based on the above findings, the applicant's proposal meets the criteria for a property line adjustment in a UT-1 zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: June 17, 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.