

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 A MODIFIED DECISION
PROPERTY LINE ADJUSTMENT CASE NO. 18-031**

APPLICATION: Application of Ivan and Glenda Silbernagel to adjust the property lines on a 6.0 acre parcel and a 2.0 acre parcel to create a 5.0 acre parcel and a 3.0 acre parcel in an AR-5 (Acreage Residential – 5 Acre Minimum) zone located 5824 and 5826 Shaw Hy SE, Aumsville (T8S; R1W; Section 18C; tax lots 3500 and 3700).

DECISION: Notice is hereby given that the Planning Director for Marion County has **APPROVED a MODIFIED** request adjusting the property lines on a 6.0 acre parcel (T8S; R1W; Section 18C; tax lot 3500) and a 5.0 acre parcel (T8S; R1W; Section 18C; tax lots 3600 and 3700) to create an 5.0 acre parcel and a 6.0 acre parcel 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 **October 24, 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's Office. 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. **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. 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 18-031. (Final Plat Instructions enclosed).
3. **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.
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 below be contacted to identify restrictions or necessary permits.

6. 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 **October 24, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 25, 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 Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR-5 (Acreage Residential- 5 Acre Minimum). The primary intent of this designation and zone is to provide for rural residential development at a density sustainable with rural services.
2. The properties are located on the east side of Shaw Hy SE approximately 765 feet north of its intersection with Keene Ln SE. The 6.0 acre parcel identified as tax lot 3500 contains an existing dwelling, accessory structures, well and septic system. The 5.0 acre parcel identified as tax lots 3600 and 3700 contains an existing dwelling, accessory structures, well and septic system. Both parcels were created by Partitioning Plat 690, and are considered two legal parcels for land use purposes.
3. Adjacent properties to the northeast and east are zoned EFU (Exclusive Farm Use) and devoted to farm use. Properties to the west are zoned AR-3 and in rural residential use. Adjacent properties to the northwest and south are zoned AR-5 and in rural residential use.
4. The applicants originally proposed to adjust the property lines on a 6.0 acre parcel (tax lot 3500) and a 2.0 acre parcel (tax lot 3700). Deed research found that tax lots 3600 and 3700 were created as one 5.0 acre parcel by Partition Plat 690. Subsequently, staff **MODIFIED** the application to create a 5.0 acre parcel and a 6.0 acre parcel. The purpose of the adjustment is to enlarge the 5.0 acre parcel to 6.0 acre parcel.
5. Marion County Surveyors Office commented "Current or updated title report, survey checking fee, second mylar 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 property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): 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)]. Marion County Planning requires perimeter descriptions of the resultant properties."

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.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. 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 5 acres for an AR-5 zoned property – the

resulting parcels meet this minimum. Structures will maintain adequate setbacks from property lines with adequate access to a roadway.

7. 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.
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.
9. Based on the above findings, the applicant's proposal meets the criteria for a property line adjustment in an AR zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore
Director-Planning Division

Date: October 9, 2018

If you have any questions please contact Patty Dorr 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.