

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 CASE NO. 19-007**

APPLICATION: Application of David and Janette Neliton and Kirk and Ashley Sund to adjust the property lines on a 2.11, 2.00, 2.01 and 2.96 acre parcel to create a 2.395, 2.082, 2.117, and 2.495 acre parcel an AR-2 (Acreage Residential – 2 Acre Minimum) zone located at 2891 and 2911 Kuebler Road S, Salem (T8S; R3W; Section 08C; tax lots 4500, 4501, 4502 and 4600).

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 2, 2021**. 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. **A replat shall be recorded with the County Clerk meeting requirements identified in ORS 92.185(6) and ORS 92.050.** The replat shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 19-007. (Final Plat Instructions enclosed). Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

Condition A – *Prior to PLA survey and Re-Plat approval, record a minimum 20-foot wide, local fire department-approved private shared access easement across Tax Lot (TL) 083W08C04600, addressed 2911 Kuebler Road S, for the benefit of Parcels 1 - 3 of Partition Plat (PP) 95-125, and depict it on the PLA survey.*

Condition B – *Prior to PLA survey and Re-Plat approval, acquire an Access Permit, and under the permit, widen the paved approach centered on the shared access easement over TL 083W08C04600, addressed 2911 Kuebler Road S, and construct a driveway all-weather surface within the easement acceptable to the local fire department.*

Condition C – Prior to PLA survey and Re-Plat approval and following recordation of an access easement across 2911 Kuebler Road S benefiting Parcels 1 - 3 of PP95-125 including construction of the driveway within, acquire an Access Permit, and under the Permit, permanently close the driveway approach connection from Kuebler Road S to TL 083W08C04500 addressed 2891 Kuebler Road S.

The above Conditions B and C may be able to be fulfilled under a single Access Permit if taken out by the 2891 Kuebler Road Property Owner for all the work.

Condition D – On the Re-Plat of PP95-125, show local fire department-approved access easements, and extinguish the private access easement named Sprague View Lane.

5. **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.
6. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System has named the proposed private access easement **Red Rock Ln S**. The name must be shown on the final partition plat, and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works **prior to the plat being recorded**.
7. 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.

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

8. 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.

9. 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).
10. The applicants should contact Marion County Land Development and Engineering (503)584-7714 for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

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 2, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 3, 2019** 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-2 (Acreage Residential-2 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 north side of Kuebler Rd S, approximately 700 feet east of its intersection with Viewcrest Rd S. The 2.11 acre parcel identified as tax lot 4500 contains an existing dwelling, accessory structure, well and septic system. The 2.00 acre parcel identified as tax lot 4501 contains accessory structures. The 2.01 acre parcel identified as tax lot 4502 is undeveloped. The properties were created as a result of approval of Partition Case 95-18 and are considered legal parcels for land use purposes. The 2.96 acre parcel identified as tax lot 4600 contains an existing dwelling, accessory structure, well and septic.
3. Surrounding properties in all directions are zoned AR and in rural residential use.
4. The applicants are proposing to adjust the property lines on a 2.11, 2.00, 2.01 and 2.96 acre parcel to create a 2.395, 2.082, 2.117, and 2.495 acre parcel. An existing access easement previously named Sprague View Ln S will be relocated and renamed as Red Rock Ln S.
5. Public Works Land Development and Engineering Permits (LDEP) requested the following be included in the land use decision:

Engineering Conditions:

“Condition A – Prior to PLA survey and Re-Plat approval, record a minimum 20-foot wide, local fire department-approved private shared access easement across Tax Lot (TL) 083W08C04600, addressed 2911 Kuebler Road S, for the benefit of Parcels 1 - 3 of Partition Plat (PP) 95-125, and depict it on the PLA survey.
Condition B – Prior to PLA survey and Re-Plat approval, acquire an Access Permit, and under the permit, widen the paved approach centered on the shared access easement over TL 083W08C04600, addressed 2911 Kuebler Road S, and construct a driveway all-weather surface within the easement acceptable to the local fire department.
Condition C – Prior to PLA survey and Re-Plat approval and following recordation of an access easement across 2911 Kuebler Road S benefiting Parcels 1 - 3 of PP95-125 including construction of the driveway within, acquire an Access Permit, and under the Permit, permanently close the driveway approach connection from Kuebler Road S to TL 083W08C04500 addressed 2891 Kuebler Road S.

The above Conditions B and C may be able to be fulfilled under a single Access Permit if taken out by the 2891 Kuebler Road Property Owner for all the work.

Condition D – On the Re-Plat of PP95-125, show local fire department-approved access easements, and extinguish the private access easement named Sprague View Lane.

The above Conditions are intended to facilitate an orderly and timely progression of the access-related issues. Public Works Engineering will require evidence of local fire department approval of the easements prior to PLA survey and Re-Plat approval.”

Engineering Requirements:

“E. In accordance with Marion County Code 11.10, driveway permits will be required for any new access or change in use and/or closure of the existing access to the public right-of-way. Improvements are anticipated to include, at minimum, widening of the shared approach. Driveways must meet sight distance, design, spacing, and safety standards.

F. Prior to building permit issuance, Applicant will need to obtain an Erosion Prevention and Sediment Control (EPSC) Permit from MCPW as the subject property is within the high-risk erosion area within the Stormwater Management Area as designated by DEQ in Marion County’s MS4 permit.

G. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-10R and #98-40R, respectively.”

Engineering Advisories:

“H. Applicant should contact the local fire district to determine applicable fire and emergency access requirements for the easements.

I. Utility easements must be available to serve the developable lots, either in conjunction with the access easements or separately.”

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.”

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. 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 two acres. All four parcels are a minimum 2 acres and would remain so after the property line adjustment. Structures will maintain adequate setbacks from setbacks from property lines with adequate access to a roadway. Subject to conditions, the property line adjustment complies with the standards of the AR zone.
7. MCC 17.172.560 ACCESS STANDARDS *All lots must have a minimum of 20 feet of frontage on a public right-of-way, or, when an access easement is proposed to serve one or more lots in any partitioning, the location and improvement of the roadway access shall conform to the following standards which are necessary for adequate access for emergency vehicles. Evidence that the access has been improved to these standards shall be provided prior to the issuance of building permits on the parcels served by the access easement.*
 - (a) *Have a minimum easement width of 20 feet;*
 - (b) *Have a maximum grade of 12%;*
 - (c) *Be improved with an all-weather surface with a minimum width of 12 feet;*
 - (d) *Provide adequate sight-distance at intersections with public roadways;*
 - (e) *Be provided with a road name sign at the public roadway as an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

The applicants are proposing an access easement in a new location to serve the parcels. The previous land use case, P95-18, approved an access easement in a different location on the property which was named Sprague View Ln S, which will no longer exist. The requirements in Chapter 172.56 can be made a condition of any approval. It should be noted that the easement must also meet local Fire District Standards. Under the provisions in the Marion County Address and Street Name Ordinance, the easement must be named and all properties accessing the easement must be addressed from the roadway. A list of names was submitted to the 911 Dispatch Center for review, **Red Rock Ln S** has been approved for the new location of the access easement serving the parcels. The name must be shown on the plat and prior to the recording of the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works.

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 an AR zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore
Director-Planning Division

Date: March 18, 2019

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.