

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 DECISION  
PROPERTY LINE ADJUSTMENT CASE NO. 22-036**

**APPLICATION:** Application of Russian Old Believers St. Nikola Church & the Kalugin Family Trust for a property line adjustment to adjust the property lines on a 1.74-acre parcel and a 38.45-acre parcel to create a 2.43-acre parcel and a 37.76-acre parcel in a UT-20 (Urban Transition, 20 acre minimum) located at 8702 Parr Rd NE, (T5S; R2W; Section 13, Tax lot 1001 & 1000).

**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 **October 5, 2024**. 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 drain field 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. 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.
2. Per Marion County Surveyor's Office, the properties must be re-platted (in the form of a partition plat). A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat. 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 re-plat must comply with all provisions per ORS 92.185 (6). The re-plat must be surveyed and platted per ORS 92.050, and the plat submitted for review. A checking fee and recording fee will be required. A current or updated title report must be submitted at the time of review.

**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:

**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 5, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 6, 2022**, unless further consideration is requested.

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

1. The subject properties are located within the City of Woodburn Urban Growth Boundary (UGB). They are designated as a mixture of Medium Density and Low Density Residential in the City of Woodburn Comprehensive Plan. They are currently zoned UT-20 (Urban Transition). The primary intent of the zoning is to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not yet have available urban facilities.
2. The properties are located approximately 0.75 miles east of the intersection of Butteville Road NE and Parr Road NE. Tax Lot 1000 is developed with a church. Tax Lot 1001 is predominately undeveloped farmland, but a small, manufactured home is also placed on the property.
3. Tax Lot 1000 was created as Parcel 1 of Partition Plat 2017-054. This partition plat was approved through Planning case Partition 16-018. No further changes to the parcel have occurred since then. Therefore, this parcel is considered legal for the purposes of land use per Marion County Code 17.110.427.
4. Tax Lot 1001 was created as Parcel 2 of Partition Plat 2017-054. This partition plat was approved through Planning case Partition 16-018. No further changes to the parcel have occurred since then. This parcel is considered legal for the purposes of land use per Marion County Code 17.110.427.
5. Adjacent properties to the west and southwest are outside the UGB and zoned EFU (Exclusive Farm Use) and appear to be utilized as medium-scale farm operations. To the south and north, adjacent properties are also zoned UT. To the east, adjacent properties are already annexed into the City of Woodburn.
6. Marion County Surveyor's Office commented: 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.

The re-plat must comply with all provisions per ORS 92.185 (6). The re-plat must be surveyed and platted per ORS 92.050, and the plat submitted for review. A checking fee and recording fee will be required. A current or updated title report must be submitted at the time of review.

7. Marion County Land Development Engineering & Permits commented:

## ENGINEERING CONDITIONS

**Condition A** – On the PLA partition plat depict a 37-foot right-of-way half-width for public roadway purposes along the smaller of the two parcel's Parr Road adjusted frontage to meet the City of Woodburn Minor Arterial standard.

Nexus is to satisfy MCC 16.13.310. Marion County defers to local city standards per MCC 16.27.210(E)(7).

**Condition B** – Prior to PLA partition plat approval, provide a notarized Non-Remonstrance Agreement to Marion County for financial participation toward urban frontage improvements along the smaller parcel's adjusted Parr Road frontage such that the that frontage will also become urbanized in conjunction with future development of the contiguous larger parcel under similar ownership that is slated for annexation into the City for the purpose of subdividing.

The two subject parcels were created in 2016 under partition case #P16-018. Nexus is the goal of facilitating a homogenous Parr Road future urban improvement that properly addresses traffic safety and pedestrian connectivity elements. MCPW Engineering will provide an executable document. Please contact John Rasmussen in the Land Development & Permits section in this regard.

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

9. Marion County Septic Division commented:

A major alteration permit application to relocate the drain field from the existing easement to the proposed adjusted property was received on March 22, 2023. Minimum requirements to issue the permit were sent out to the applicant on April 8, 2022, and May 10, 2022. The property line adjustment must be completed before this permit can be issued, in addition to the minimum requirements specified in the report. Otherwise, an easement would be required in accordance with OAR 340-071-0130(11).

10. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.

11. The criteria for reviewing lot line adjustments within an UT zone are listed in Chapter 16.13.310(B) MCC. These criteria are as follows:

- 1. 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.*

The properties have frontage of Marion County right-of-way. Therefore, Marion County Land Development Engineering & Permits has provided information regarding the necessary dedication and agreement. These requirements will be made conditions of approval. The criterion is met.

- 2. 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.*

The proposed property line adjustment does not significantly reduce options for urban streets, utility services, or development options. The larger, undeveloped parcel will remain with over an estimated 1500 feet of frontage along the public right-of-way. This frontage should be sufficient to develop streets, services, and utilities for future development. The shape of the resulting parcels is still very uniform as well, presenting no new difficulties. The criterion is met.

- 3. 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.*

The larger parcel is occupied by a residence, and that parcel shall be reduced in size. The lot does indeed contain all the undeveloped land and will remain large enough for urban development. The applicant's plans for development illustrate this. The criterion is met.

- 4. 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 adjusted tax lot 1000 is smaller than five acres and larger than one acre and is indeed located within a residential plan designation. However, the parcel is already occupied by a nonresidential use, and practically speaking, the parcel is nearly fully developed. The applicant's preliminary subdivision plan for the undeveloped parcel does not appear to present any challenges to future development of tax lot 1000 if the nonresidential use and development were to cease or be removed. The criterion is met.

- 5. New lots shall have no dimension less than 80 feet.*

No new lots will be created. This criterion does not apply.

- 6. When a lot located in a residential plan designation and occupied by a nonresidential 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.*

Tax lot 1000 is located within a residential plan designation and occupied by a nonresidential use. Tax lot 1000 is expanding to accommodate the relocation of a septic system that is necessary for the nonresidential use to remain (the church). The relocation of the septic system in fact is the better for development because it concentrates the church's developed land use onto a single parcel. The adjustment does indeed minimize the amount of undeveloped land to be included with the nonresidential use. The criterion is met.

- 7. The minimum lot size, in acres, for lots in nonresidential 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. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.31.]*

The lots are in a residential plan designation, and therefore this criterion does not apply.

- 12. 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.*
- 13. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in a UT zone. The property line adjustment request is, therefore, **APPROVED**.*

Brandon Reich  
Planning Director/Zoning Administrator

Date: September 20, 2022

If you have any questions regarding this decision contact Daniel Jansen 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.