

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. 22-038**

APPLICATION: Application of Arturo and Juventia Sarabia for a property line adjustment to adjust the property lines on a 0.20-acre parcel, a 0.19-acre parcel, and a 0.19-acre parcel to create a 0.20-acre parcel, a 0.21-acre parcel, and a 0.17-acre parcel in a Single-Family Residential (RS) zone located at 4933, 4923, 4913, and 4903 Silverton Road NE, Salem (T7S; R2W; Section 8CD, Tax Lots 2200 & 2400).

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 26, 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.

3. Per Marion County Land Development & Engineering, access permits will be necessary for changes to the access ways. No new direct access to Silverton Road will be allowed. Please review the full LDEP comments in the Findings & Conclusions and contact LDEP for more information.

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

4. 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.

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 26, 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 27, 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 Salem Urban Growth Boundary (UGB). They are designated as Single Family Residential in the City of Salem Comprehensive Plan. They are currently zoned RS (Single Family Residential). The primary intent of the zoning is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The properties are located at the intersection of Silverton Road NE and Middle Grove Drive NE. The properties are currently two tax lots, but three subdivision lots. There are two multi-family dual unit (duplex) structures on the property per the Marion County Assessor records. Both of these appear to have been built between 1950 and 1951. Adjacent properties in all directions are also zoned Single Family Residential (RS), with exception to property across Silverton Road to the south, which is zoned Public (P).
3. Tax Lot 2400 includes Lots 6 and 7 of the Hancock's Addition plat. Tax Lot 2200 includes Lot 5 of Hancock's Addition. Hancock's Addition was a subdivision platted in 1946, prior to zoning regulations. No further changes to the parcels have occurred since then. Therefore, **these three parcels** are considered legal for the purposes of land use per Marion County Code 17.110.427.
4. 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.

5. Marion County Land Development Engineering & Permits commented:

ENGINEERING ADVISORY

A. In response to the land use application site plan, no new direct access to Silverton Road will be allowed. Furthermore, and in general, no property access is allowable within a bus pull-out.

It is noted that there appears to be unauthorized direct access being taken from Middle Grove Drive. Access Permit #10-1281 issued to the prior property owner for the #4903 Silverton Road address required fencing-off the Middle Grove Drive property frontage as a means of restricting unauthorized access. The Permit requirements had not been complied with at the time, and the Permit has since expired.

Any necessary access would need to be derived from the one or both of two existing Silverton Road accesses. Applicant may wish to create a private access and parking easement(s) to serve the development.

MCPW Engineering will conduct a formal access review at the time of application for any required building permits for the indicated duplex building Addition. Applicant will be obligated to obtain an Access Permit to permanently restrict Middle Grove Drive direct access with fencing on private property, and complete installation prior to issuance of building permits for the Addition.

6. Marion County Assessor's Office provided information regarding taxes on the subject properties.
7. 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.
8. There are no specific property line adjustment criteria for the RS zone; however, the resulting parcels must still meet the other requirements of the zoning such as lot area, dimensions, setbacks/yards, and so forth. The first applicable section is Marion County Code 16.02.120:
 - A. *Lot Area. The minimum lot area for a single-family dwelling in a subdivision approved after the effective date of the ordinance codified in this title, is 4,000 square feet when located within the Salem/Keizer area urban growth boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter [16.27](#) MCC for density limitations.)*

The parcels are located within the Salem/Keizer area urban growth boundary. Therefore, the minimum parcel size is 4,000 square feet. The applicant's site plan and Tax Assessor data suggests that all parcels will still meet the minimum after adjustment. There was some uncertainty as to the accuracy of the site plan's measurements, so an estimate of the parcel size was performed using GIS as well. The results of this estimate indicate that the resultant parcels will be 0.20 acres, 0.21 acres, and 0.17 acres. These sizes meet the minimum requirements. More accurate measurements will be taken by the surveyor who creates the resultant plat. The criterion is met.

- B. *Lot Dimensions. Except as provided in MCC [16.26.800](#) for planned developments, the width of a lot shall be at least 60 feet; provided, that within the Salem/Keizer urban growth boundary the width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 863 § 5, 1990. UZ Ord. § 2.12.]*

The parcels are located within the Salem/Keizer urban growth boundary. Therefore, the minimum parcel width is 40 feet, and a depth of 70 feet is required. Each parcel was already compliant with these criteria before adjustment, and it appears each will remain compliant after adjustment. The criterion is met.

9. Marion County Code 16.02.130 through 16.02.150 dictates yard size for the RS zone. Ideally, the new property lines should not create non-conforming setbacks or yards. In this case, the property lines that are changing will only affect the side yard setbacks of existing structures. It appears that the side yard setback for the duplex on Lot 6 will be increased as a result of this property line adjustment. Meanwhile, the side yard setback for the duplex on Lot 7 will decrease. MCC 16.02.140 requires a five-foot setback for side yards, and it appears that the duplex on Lot 7 will still meet this requirement. No new nonconformities will be created.

10. 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.
11. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in a RS zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: October 11, 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.