

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.

**CORRECTED NOTICE OF DECISION
PROPERTY LINE ADJUSTMENT CASE NO.24-010**

APPLICATION: Application of Louise Satern and Todd & Cora Harlow for a property line adjustment to adjust the property lines on a 1-acre parcel and a 1.24-acre parcel to create a 0.5-acre parcel and a 1.74-acre parcel in the UT-5 (Urban Transition) zone located at 1529 & 1525 Pine St NE, Silverton (T6S, R1W, Section 34BB, Tax lots 1800, 2000 & 2100).

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 15, 2026** (two years). The effective period may be extended for an additional year subject to approval of an 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 proposal is for land use purposes only. Due to septic, well and drain field replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should contact 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. Per the Marion County Surveyor's Office properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review. A survey checking fee is required at the time of review. Additionally, property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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.
2. 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.
3. The new deed description of the property lines for the adjusted parcel that includes the area of tax lot 2000 & 2100 shall be written as a singular perimeter description to correct the 2018 deed recordings referenced in finding #2.
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 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 restrictions or conditions. It is recommended that agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits.

6. Prior to recording the deeds all taxes due must be paid to the Marion County Assessor's Office Tax Section (contact them at (503) 588-5215 for verification of payments).
7. The applicants should contact the Silverton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

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 15, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 16, 2024**, unless further consideration is requested.

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

1. The subject properties are designated Single Family Residential in the City of Silverton Comprehensive Plan and correspondingly zoned UT-5 under the jurisdiction of Marion County. The primary intent of both this designation and zone is to provide land for future urban development.
2. The properties are located on the South side of Pine St NE about a quarter mile from the intersection of Pine St NE and Schemmel Ln NE inside the Urban Growth Boundary (UGB) of Silverton. A review of land use cases for both properties found that tax lot 2000 was involved in land use case LLA85-009, which adjusted the property lines between tax lot 2000, tax lot 1400 located 275-feet to the west, and a third lot that consisted of the area that is now tax lots 1600 & 2100 respectively. All the lots are within the same township, range, and section. The result of that case was the single parcel consisting of what is now tax lots 1600 & 2100 was split and the resulting pieces were combined with tax lots 1400 and 2000 (1400 & 1600 as one legal lot and 2000 & 2100 as one legal lot) per condition of approval #2. Part of this same condition of approval was that the deed descriptions should be rewritten to describe the enlarged parcels. Any new deed description resulting from the proposed property line adjustment shall include tax lots 2000 & 2100 as a singular perimeter description. This will be made a condition of approval.

Additionally, in 2018 through a change in the deed descriptions between tax lot 2000 and tax lot 1900 to the north, resulting in tax lot 2000 ceding a portion of land to lot 1900. This adjustment should have been made through a formal land use case since tax lot 2000 was involved in a previous property line adjustment. The current proposed property line adjustment represents an opportunity to correct this error by including the 2018 deed adjustment with the new deeds as part of the proposed adjustment. The parcel consisting of the land in tax lots 2000 & 2100 is considered legal for land use purposes and will be referred to as Parcel 2 hereafter.

Deed research on tax lot 1800 (hereafter referred to as Parcel 1) shows that it has been described in its current configuration since April of 1948 when it was purchased by Marshal and Louise Satern and has not changed configuration since. It is considered legal for land use purposes.

3. Adjacent properties to the North, East and West are zoned UT-5 and consist of small acreage homesites. Less than a quarter mile East of the properties is the entrance to Silverton High School and less than 300-feet to the West are some low intensity commercial and industrial lots. The properties to the South are a mix of EFU and incorporated Public zoned lots that are the site of the City of Silverton's wastewater treatment facility.
4. The applicants are proposing to adjust the property lines between a 1.0-acre parcel and a 1.24-acre parcel to create a 0.5-acre and a 1.74-acre parcel through the transfer of the southern orchard area from Parcel 1 to Parcel 2.
5. Various agencies were contacted about the proposal and given an opportunity to comment:

Marion County Septic reviewed the proposal and commented as follows: "The property at 1525 Pine St is OK. The property at 1529 Pine will require an existing system evaluation and a Site Evaluation to establish a repair area."

Marion County Surveyor's Office commented:

1. Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
2. Survey checking fee required at the time of review.
3. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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.

All other contacted agencies stated no objection to the proposal.

6. The criteria for reviewing property line adjustments within a UT-5 zone are listed in Chapter 16.13.310 of the Marion County Code. These criteria are as follows:

B. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:

- 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 nonremonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

Pine St NE is a rural county road designated as arterial in the Marion County rural functional classification that meets its right-of-way width requirements. While the applicants have not addressed any potential frontage upgrade requirements, no street improvements have been requested by any agencies providing comments. The criterion does not apply.

- 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 lot line adjustment will not reduce the options for future urban streets or utilities as the stated intention of the property owners is to continue to use the land in the same manner currently being conducted and not reduce the amount of undeveloped land within the two lots. The frontage of the two lots to Pine St is not being altered in this proposal, so options for the location of future utility services or urban streets will not be impacted. 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.

Both lots involved in the property line adjustment currently contain a dwelling. Parcel 2 would not be increased to a size that would allow it to accommodate a new residence and Parcel 1 is already 1.0-acre in size and will be made smaller than 1-acre after the adjustment. The land transferred from Parcel 1 to Parcel 2 is undeveloped and would result in the majority of undeveloped land within both properties being concentrated on Parcel 2. 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 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.

The original application for the property line adjustment only included tax lots 1800 and 2000 which are both smaller than 1-acre and would not have required a redevelopment plan to be submitted. However, in the research for this report it was determined that tax lot 2000 is only part of a single legal lot in combination with tax lot 2100 and that the actual size of the legal lot is 1.24-acres (using tax lot acreages for reference). While this additional acreage would mean that a redevelopment plan is required, the applicants will not be required to submit a redevelopment plan because the added acreage from tax lot 2100 is a wooded terrace bank with slopes that would limit potential development. This is supported in the findings of case LLA85-009. Therefore, the criterion does not apply.

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

Dimensions for the new configuration of the lots were not provided. Based on the deed description, Parcel 1 has an existing East-West dimension of 1.2 chains, which converts to 79.86 feet, which does not meet the minimum requirement of 80-foot dimensions for new lots. However, since this configuration pre-dates the adoption of planning and zoning ordinances the criterion does not apply to this dimension. All other dimensions for the new lots are greater than 80-feet. The criterion is met.

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.

Both parcels involved in the property line adjustment are currently in use as small acreage residential home sites and do not contain nonresidential uses. The criterion does not apply.

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.

The underlying designation for the parcels in the city of Silverton comprehensive plan is single family residential. The criterion does not apply.

7. Based on the above findings, the proposal meets the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: 5/31/2024

If you have any questions regarding this decision contact Alexander Seifer 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.