

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. 24-014**

APPLICATION: Application Rose & Tammy M. Fudge and Daniel & Maureen Pyle for a property line adjustment to adjust the property lines on a 1.36-acre parcel and a 2.07-acre parcel to create a 1.42-acre parcel and a 2.01-acre parcel in an AR (Acreage Residential) zone located at 11177 Riverwood Dr SE, Lyons (T9S; R2E; Section 18DA; Tax Lot 101 & Section 18AD; Tax Lot 600).

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 **July 25, 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 drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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. **Property line adjustment deeds shall be recorded with the 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 is recorded by the applicants with the Marion County Clerk.**
2. Per Marion County Surveyor's Office properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey must be submitted for review. A survey checking fee will be required at the time of review and 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.
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 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 the 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 Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
7. The applicants should contact the Stayton 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 provide 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 **July 25, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 26, 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 Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The primary intent of the designation is to provide for rural residential development at a density sustainable with rural services.
2. The parcels are located just east of Mehama and south of Highway 22 along the Little North Fork of the Santiam River. Tax lot 101 contains a dwelling and accessory structure, and Tax lot 600 is part of the property addressed 11183 Riverwood Dr SE and contains an accessory structure and garden. The establishment of the dwelling on Tax lot 101 in 1972 prior to land use planning indicates that it was a legally established parcel. Tax lot 600 was created by partition in 1995 by P95-030 and has existed in its current configuration since 2006 when it was modified by property line adjustment PLA06-013. Both parcels are therefore considered legal for land use purposes.
3. All adjacent properties are zoned AR and consist of small acreage homesites.
4. The applicants are proposing to adjust the existing property line by transferring 2,760 square feet from tax lot 101 to tax lot 600. This area consists of a 10-foot by 276-foot strip along the northwestern edge of tax lot 101 that once transferred will give a larger buffer between the dwelling on tax lot 600.
5. Several agencies were contacted for comments on the proposal.

Marion County Surveyors Office commented:

- Properties 10 acres or less 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. Per ORS 92.190 (4).

Marion County Building Inspection commented: “No Building Inspection concerns. Building Inspection recommends the new property line be established at least 3 feet from existing structures exterior walls. If any less, additional fire resistive materials may be required to be installed on the exterior walls of existing structures.”

Marion County Tax Assessor’s Office provided information about the taxes on the property.

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

6. No specific criteria exist for property line adjustments in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres, except when a numerical suffix has been applied. Therefore, in this AR zone, the minimum lot size is two acres. When a property line adjustment proposes to alter non-conforming parcels, the proposed configuration must not result in additional non-conformance.

Tax lot 600 is below the minimum parcel size at 1.36-acres, and tax lot 101 is just above the minimum parcel size at 2.07-acres. The proposed property line adjustment will transfer approximately 0.06-acres from tax lot 101 to tax lot 600. This will maintain the conformance of tax lot 101 with the minimum parcel size. Tax lot 600 will remain under the minimum parcel size, but the non-conformity will not be increased. The criterion is met.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: July 10, 2024

If you have any questions regarding this decision contact John Speckman 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.