

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. 24-019**

APPLICATION: Application of Geoffrey H. Sugerman and Manya & Samuel Helman for a property line adjustment to adjust the property lines on a 7.87-acre parcel and a 4.18-acre parcel to create a 5.87-acre parcel and a 6.18-acre parcel in the UT-5 (Urban Transition) zone located at 14567 & 14569 Evans Valley Rd NE, Silverton (T6S, R1W, Section 36B; Tax Lot 1200, & Section 36C, Tax lots 300 & 400).

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 **September 4, 2026**. 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. 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.
2. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office per ORS 92.190 (4). Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted to the Marion County Surveyors Office for review. A survey checking fee will be required at the time of review.
3. Prior to issuance of any building permit(s), property line adjustment deeds meeting requirements identified in ORS 92.190(4) shall be recorded with the County Clerk. The deeds shall include a perimeter description of both adjusted parcels.
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 another 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.
8. 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 **September 4, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 5, 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 in the City of Silverton Comprehensive Plan and correspondingly zoned UT-5 (Urban Transition) under the jurisdiction of Marion County. The primary intent of both this designation and zone is to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not have available urban facilities such as sanitary sewer, water, drainage and streets.
2. The subject properties are located in the 14,500 block of Evans Valley Road NE. In 1988 a previous owner of 14567 Evans Valley Road applied for a partition to divide the 7.73-acre parcel into a 2-acre and a 5.73-acre parcel. The application was denied. The applicants decided to create a 2-acre tax lot instead by deed. The tax lot was not a legal parcel but was sold as if it were one. Therefore, the current ownership and tax lots do not reflect the legal parcels. The valid parcels are a 7.73-acre parcel consisting of tax lots 300 and 400, and a 4.18-acre parcel consisting of tax lot 1200. These two parcels are legal for land use purposes.
3. The properties are on the eastern edge of the City of Silverton's Urban Growth Boundary. To the North and East are other UT-5 zoned parcels in mixed residential and agricultural use. To the west of tax lot 1200 is a developed Single-Family subdivision within the annexed area of Silverton. To the east and south of the subject parcels are properties in an EFU zone in use for rural residences, hobby farms, and some agriculture.
4. The applicants are proposing to adjust the property lines to rectify an unlawful sale of land by previous owners.
5. Various agencies were contacted with requests for comment:

Marion County Building Inspection Division commented: "No Building Inspection concerns. Permit(s) are required to be obtained prior to development and/or utilities installation on private property."

Marion County Surveyor's Office commented:

- Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
- Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).

- Survey checking fee required at the time of review.

All other agencies either did not respond or stated no objection to the proposal.

6. The criteria for reviewing property line adjustments within an Urban Transition zone are listed in MCC 16.13.310. These criteria are as follows:

A. A series partition, subdivision, residential planned development or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes is not permitted in the UT zone.

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.

Marion County Land Development, Engineering & Permits did not require any right-of-way dedication, or a non-remonstrance agreement as conditions of approval for this property line adjustment. 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 property line adjustment will result in a 5.87-acre parcel and a 6.18-acre parcel in long recognized configurations that were based on an unlawful sale of land. The configurations and uses of the properties will not change as a result of the proposed property line adjustment, and therefore the feasibility of future urban streets, services, and development options will remain the same. 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 proposed lots are going to be over 5-acres. The reduction in size of the 7.87-acre parcel has already been realized, albeit unlawfully. The reduction proposed is not for the purpose of isolating the existing dwelling, or related to accommodation of a new residence. The resulting lot being reduced will still have significant incentive to redevelop at urban densities upon annexation. 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.

Both proposed lots are going to be over 5-acres in size. The criterion does not apply.

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

The proposed adjusted properties will each have dimensions of at least 630 by 400 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.

Neither subject parcel is occupied by a nonresidential use, and no new lots are being created. 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 subject parcels are designated for Single Family Residential in the City of Silverton's comprehensive plan. The criterion does not apply.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: August 20, 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.