

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. 24-033**

APPLICATION: Application of Evan L. Nikiforoff and Dee Dee & Trent Clinkscales for a property line adjustment to adjust the property lines on a 0.85-acre parcel and a 0.54-acre parcel to create a 0.75-acre parcel and a 0.60-acre parcel in the UT-5 (Urban Transition) zone located at 17532 & 17534 Dunn Rd NE, Hubbard (T4S, R1W, Section 34CC, Tax lots 500 & 501).

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 21st, 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. Per the Marion County Surveyor's Office, a re-plat (in the form of a partition plat) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line. The re-plat must comply with all provisions per ORS 92.185 (6). The properties must be surveyed and platted per ORS 92.050, and the plat submitted for review. Survey checking fee and recording fees required. A current or updated title report must be submitted at the time of review.
2. The proposed alley vacation must be completed prior to replat being submitted for review to the County Surveyor's Office.
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. Prior to the 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.
5. 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:

6. 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.

7. 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).
8. The applicants should contact the Hubbard Fire Department 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 \$250) 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 21st, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 22nd, 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 Urban Transition in the City of Hubbard Comprehensive Plan with the intended purpose of low density residential; this land is 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. The zone allows the continuation of legally established uses and establishment of uses compatible with the plan designation.
2. The subject properties are located in the 17500 block of Dunn Rd Road NE about 0.3 miles south of Whiskey Hill Road NE. These parcels were created by the 1911 Trullinger Tracts Subdivision and recorded on survey S07-073. These two parcels are legal for land use purposes.
3. The properties are on the eastern edge of the City of Hubbard Urban Growth Boundary. The subject parcels are surrounded by other parcels zoned as UT-5 by Marion County and are currently a mix of residential and agricultural use. To the west, inside the Hubbard city limits, the land is zoned for industrial uses and on the north side of Whiskey Hill Rd NE, the City of Hubbard has zoned the land residential. Tax lot 501 currently has a dwelling established in 1995; tax lot 500 appears to be undeveloped at this time.
4. The applicants are proposing to adjust the property lines by approximately 0.1-acres to situate the dwelling on tax lot 501 entirely on the appropriate lot.
5. Various agencies were contacted with requests for comments:

Marion County Building Inspection Division commented:

“No Building Inspection concerns with application and proposed property lines as they relate to existing conditions. Permit(s) are required to be obtained prior to development and/or utilities installation on private property.”

Marion County Surveyor's Office commented:

1. A re-plat (in the form of a partition plat) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line.
2. Must comply with applicable provisions of ORS 92.185.
3. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
4. Checking fee and recording fees required.
5. A current or updated title report must be submitted at the time of review.

The applicant is also a petitioner for an alley vacation. The vacation needs to be completed prior to the replat being submitted to my office for 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.

This application is for a property line adjustment and does not create any additional lots or parcels. The Criterion does not apply.

- 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 the proper location of the property lines to fully encapsulate the dwelling and attached garage on tax lot 501. 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 lots are under one acre and will remain under one acre. The undeveloped tax lot 500 will remain large enough to retain development potential to develop the lot. 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 lots are under one acre. 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 118 by 230 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 Low Density Residential in the City of Hubbard's comprehensive plan and below the 5-acre designation of the Marion County UT-5 zone. The criterion does not apply.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: October 4, 2024

If you have any questions regarding this decision contact George Brandt at (503) 566-3981.

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.