

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. 24-034**

APPLICATION: Application of Peter & Donna Paradis and Art & Margaret Hyland for a property line adjustment to adjust the property lines on a 1.5-acre parcel and 1.18-acre parcel to create a 1.6-acre parcel and a 1.08-acre parcel in the AR (Acreage Residential) zone located at 17636 & 17616 Abiqua Rd NE, Silverton (T6S; R1E; Section 28CB; Tax lots 200 & 300).

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** (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. 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. 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 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:

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 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.

5. 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).
6. 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 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 \$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 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 Northeast of Silverton along Abiqua Rd NW along the Abiqua Creek approximately one mile southeast of the intersection of Abiqua Rd NE and Hazelnut Ridge Rd NE. Tax lot 300 was created by the Creek View Estates subdivision plat in 1990 and recorded on survey S39-026 and deed Reel 4429, Page 249. Tax lot 200 was also created by the Creek View Estates subdivision and recorded on deed instrument 2023-29708. Therefore, both are recognized as separate legal parcels for land use purposes. Tax lot 300 is 1.18-acres and has one dwelling on the property. Tax lot 200 is 1.47-acres and has one dwelling and at least one accessory building, according to available satellite imagery.
3. All adjacent properties to the south are zoned AR and consist of small acreage homesites. The properties to the north of Abiqua Rd NE are zone EFU (Exclusive Farm Use).
4. The applicants are proposing to adjust the western property line by moving it 30 feet westward to give tax lot 200 river access.
5. Several agencies were contacted for comments on the proposal.

Marion County Surveyors Office commented:

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.

1. Must comply with the applicable provisions of ORS 92.185.
2. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
3. Checking fee and recording fees required.
4. A current or updated title report must be submitted at the time of review.

The 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 the 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.

Both existing lots are below the 2-acre minimum parcel size for the AR zone; the new configuration of the parcels the applicants are proposing would result in a change in the common boundary line between the parcels and change each tax lot by 0.1-acres. This accomplishes a change in the property lines without effecting the useability of the land. 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: 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.