

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.24-038**

APPLICATION: Application of Matthew Nelson and Holly Winston to adjust the property lines on a 1.46-acre parcel and a 0.96-acre parcel to create a 1.34-acre parcel and a 1.09-acre parcel in UT-5 (Urban Transition) zone located at 4938 and 4934 Center St NE, Salem (T7S; R2W; Section 29BA, Tax Lots 1300 & 1200.)

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 **November 4th, 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. 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)."
2. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
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 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 Marion County Fire District Number 1 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 **November 4th, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 5th, 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 Developing Residential in the City of Salem 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 residential development.
2. The properties are located on the South side of Center St NE about 700 feet west of Cordon Rd NE and the Salem Urban Growth Boundary (UGB) line. Tax lot 1200 is described in a 1975 deed (Reel 13, Page 186) in its current configuration and is reflected on a 1976 survey (survey # 025468). Tax lot 1300 is described in its current configuration on deed dated 1978 (Reel 48, Page 965) and described by a 1976 survey (survey # 025468). The subject parcels are considered legal for land use purposes.
3. Adjacent properties to the West, East and South are zoned UT-5 and consist of small acreage homesites. To the north the properties are incorporated into the City of Salem and zoned single family residential. The properties further east are rural Marion County Acreage Residential (AR) homesites outside the City of Salem Urban Growth Boundary (UGB).
4. The applicants are proposing to adjust the property lines on a 1.46-acre parcel and a 0.96-acre parcel to create a 1.34-acre parcel and a 1.09-acre parcel.
5. Various agencies were contacted about the proposal and given an opportunity to comment:

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.
- 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 commented:

"Proposed property line appears to be running through existing home. A more accurate site plan should be submitted to clarify the actual proposed property line(s) as they relate to all existing structures. A minimum of 3 feet to existing residential structures and a minimum 10 feet to commercial structures (if applicable) are recommended dimensions to establish new property lines. If any less than these dimensions, then additional fire

resistive materials may be required to be installed on exterior walls of existing structures. Permit(s) would be required to be obtained prior to this work.”

Marion County Tax Assessor provided comments about the taxes on the properties.

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.

Center St NE is a paved urban road designated as major arterial in the City of Salem’s Street Classification system within the urban growth boundary of Salem, as such Center St NE 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 agency 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 Center St NE is not being altered in this proposal, thus 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. No new dwellings are being proposed and the existing parcels predate modern planning efforts. Tax lot 1200 will be increased by approximately 0.12 acres from under one acre to just over one acre. Tax lot 1300 will be made approximately 0.12 acres smaller and still remain over one acre. 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 resulting parcels will be below 5 acres and above 1 acre and have existing dwellings and are surrounded by similar dimensioned lots. Current land use patterns suggest that further development might be feasible but limited due to current land use patterns and building footprints. In addition, the narrow dimensions of the lots would limit future access. The criterion are met.

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

Both lots are over 80 feet wide, 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 Salem Comprehensive Plan is developing 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: 10/18/2024

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.