

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.20-017**

**APPLICATION:** Application of Lenhart2014 LT Terrence & Kevin Linhart; Schwartz LT & Jerome & Linda Schwartz Trust to adjust the property lines on a 3.26 acre parcel and a 2.26 acre parcel to create a 3.49 acre parcel and a 2.03 acre parcel in an AR (Agriculture Residential) zone located at 2895 Etomina and 2685 Etomina LN S, Salem (T8S; R3W; Section 32; tax lots 2100, 2200).

**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 **June 5, 2022** (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. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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 acknowledgement. **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. The applicant shall have the parcels re-platted per ORS 92.185(6) and ORS 92.050. The re-plat shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment/Adjustment Case 20-017. (Final Plat Instructions enclosed).
3. 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.
4. 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.
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 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.

7. 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).
8. The applicants should contact the Salem Suburban 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 **June 5, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 6, 2020** 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 properties are located at the end of Etomina Ln S, on the northern side of the road. Review of land use cases for both properties indicates they were both created in their present configuration through SUB96-11. Therefore, both are recognized as legal separate parcels for land use purposes.
3. All adjacent properties are zoned AR and consist of homes on small acreage home sites.
4. The applicants are proposing to to adjust the property lines on a 3.26 acre parcel and a 2.26 acre parcel to create a 3.49 acre parcel and a 2.03 acre parcel.
5. Marion County Surveyors Office commented:
  - a. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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. The deeds conveying the re-platted parcels shall be recorded after the recording
  - b. of the re-plat.

- c. Must comply with all provisions per ORS 92.185 (6)
- d. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
- e. Checking fee and recording fees required.
- f. A current or updated title report must be submitted at the time of review.
- g. The portion of the subdivision or partition plat proposed for replatting contains utility easement(s) that will need to be addressed. Per ORS 92.185 (4), when a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation must notify the governing body in writing within 14 days of the mailing or other service of the notice.

If it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the applicant to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

Salem Fire Department commented that "Fire Dept. access shall be maintained to the existing structures. Any future construction will be required to comply with items including fire department access and water supply at the time of construction.

Marion County Tax Assessor provided information regarding the taxes of the subject property.

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

- 6. There are no specific approval criteria for property line adjustments in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres. Both properties were greater than two acres before adjustment and will remain over after. . This will not impair surrounding parcels or uses and will not prevent future development on the subject property.
- 7. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**.

Joe Fennimore  
Planning Director

Date: May 21, 2020

If you have any questions regarding this decision contact Austin Barnes 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.